CCJE(2015)5

London, 16 October 2015

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

**16th plenary meeting**

***London, United Kingdom, 14-16 October 2015***

**ABRIDGED MEETING REPORT**

**A.   FOREWORD**

1.     The Consultative Council of European Judges (CCJE) held its 16th plenary meeting in London, United Kingdom, on 14-16 October 2015, at the invitation of the judicial authorities, within the framework of the 800th anniversary of the Magna Carta. It was chaired by Bart van Lierop (Netherlands), President of the CCJE. The agenda and the list of participants are appended.

**B.   ITEMS SUBMITTED TO THE COMMITTEE OF MINISTERS FOR DECISION**

2.     The CCJE invited the Committee of Ministers:

a.     to take note of Opinion No. 18 (2015) “on the position of the judiciary and its relation with the other powers of state in a modern democracy";

and to note that this document would be forwarded to the relevant bodies in the member states, which would be encouraged to translate it into appropriate languages if need be, and to the relevant bodies of the Council of Europe in order that they may take account of it in their own work;

b.    to take note of this report as a whole.

**C.   LIST OF ITEMS DISCUSSED AND DECISIONS TAKEN BY THE CCJE**

The CCJE

3.     **warmly thanked** the judicial authorities of England and Wales, and in particular The Right Honourable The Lord THOMAS of CWMGIEDD - Lord Chief Justice of England and Wales, The Right Honourable The Lord NEUBERGER of ABBOTSBURY - President of the Supreme Court of the United Kingdom, The Right Honourable The Lord Justice Richard AIKENS - Court of Appeal of England and Wales, for having invited the CCJE to hold its plenary meeting within the prestigious framework of the 800th anniversary of the Magna Carta, and **recalled** the pertinence of the principles contained in this fundamental text for modern democracies;

4.     **adopted** its Opinion No.18(2015) “on the position of the judiciary and its relation with the other powers of state in a modern democracy" (CCJE(2015)4), subject to possible amendments on the form by its Bureau, which is entrusted to do so if needed, in order to ensure the good consistency of the English and French versions;

**decided** to submit it to the Committee of Ministers to take note of it; **invited** the member States to ensure its distribution as far as possible among decision-makers and professionals of justice, including its translation where needed; **decided** to transmit it also to the CEPEJ, the CCPE and the CDCJ, so that they may take it into account in the course of their work;

5.     **took note** of the CCJE Activity Report for 2015 (CCJE-BU(2015)3) prepared by the Bureau and **welcomed** the involvement of its members who promoted the Opinions and the work of the CCJE in the course of the year within the framework of other fora;

**took note** of the responses given by its Bureau to the requests regarding the situation of judges in Luxembourg, Montenegro, Serbia, Slovakia, Turkey and Ukraine, which appear on the CCJE’s Website ;

6.     **adopted** the updated report on the situation of the judiciary and judges in the member States of the Council of Europe (CCJE(2015)3) and **decided** to submit it to the Committee of Ministers, together with the replies submitted by the member states to the Secretariat before 23 October 2016, to take note of it together;

**took note** of the responses given by its relevant members as regards the situations of judges in Belgium, Bulgaria, Greece, Italy, Luxembourg, Poland, Serbia, Spain, Switzerland, Turkey and Ukraine;

7.     **welcomed** the Report by the Secretary General of the Council of Europe on "the state of democracy, human rights and the rule of law in Europe"; **noted with satisfaction** that the Secretary General had requested that "the Consultative Council of European Judges and the Consultative Council of European Prosecutors urgently draft a comprehensive review of the main challenges for judicial impartiality and independence in member states";

**took note** of the on-going work within the task force set up to this end by the Bureaus of the CCJE and CCPE, aimed at delivering a report to the Secretary General at the beginning of December 2015 and **thanked** the European Network of Councils for the Judiciary (ENCJ) for its cooperation;

**noted** that the report prepared under the authority of the two Bureaus would serve in particular as a basis for the Secretary General to prepare an Action Plan on the independence and impartiality of judicial systems; **underlined its strong interest** in being directly involved in the implementation of this Action Plan;

8.     **approved** the draft Terms of Reference for 2016-2017 to be adopted by the Committee of Ministers and **recalled** that it was at the disposal of the Committee of Ministers and other bodies of the Council of Europe (particularly the Secretary General and the Parliamentary Assembly)to prepare opinions concerning the specific situation of judges in given member States; to that end, **reiterated its invitation to its members** to indicate their availability to take part in a pool of experts to be requested to work accordingly;

**invited the member states**to appoint deputy-members to the CCJE – bearing in mind that the Council of Europe will only bear the travel and per diem for one member per delegation as regards the attendance of the meetings;

9.     **decided** to focus its 2016 Opinion on the “role of court presidents” and **instructed** **its Bureau and the select group appointed for 2016** to prepare a draft Opinion on this issue to be adopted at its 17th plenary meeting; **considered, subject to further discussion**, to focus its 2017 Opinion on the “integrity of judges”; **noted** that the following topics were also highlighted as being of interest to the work ahead: "judges, migrants and human rights", "the unification of the jurisprudence", "the role of judicial inspectorates", "the lustration of judges", "the place and role of the judge after the end of his/her mandate";

10.  **appointed** Orlando AFONSO (Portugal), George BIRMINGHAM (Ireland), José Francisco COBO SAENZ (Spain), Viktor GORODOVENKO (Ukraine), Mats MELIN (Sweden), Aida-Rodica POPA (Romania), Gerhard REISSNER (Austria), Maiia ROUSSEVA (Bulgaria), Bart Van LIEROP (Netherlands) as members, and Anata ARNAUDOVSKA (« the former Yugoslav Republic of Macedonia »), Kathrin KLETT (Switzerland), Raffaele SABATO (Italy) as substitute members to the select group (CCJE-GT) responsible for preparing the 2016 draft Opinion to be submitted to the 17th plenary meeting of the CCJE;

11.  **elected** Nils ENGSTAD (Norway), as President, and Duro SESSA (Croatia), as Vice-President, for 2016; **elected** Jean-Claude WIWINIUS (Luxembourg) as a Bureau member for 2016 and 2017; **warmly thanked** Bart van LIEROP (Netherlands), Richard AIKENS (United Kingdom) and Johannes RIEDEL (Germany) for their commitment to the work of the Bureau;

12.  **designated** Aida-Rodica POPA (Romania) as the Gender Equality Rapporteur for 2016;

13.  **proposed** to hold its 17th plenary meeting from 8 to 10 November 2016; **thanked** **its members in respect of Romania and Turkey** for the invitation to hold the 17th meeting of the CCJE in Bucharest or Istanbul;

**proposed** to hold the 30th and 31st  meetings of the select group (CCJE-GT) on 30 March – 1 April 2016 and 15-17 June 2016 respectively; **thanked** **its members in respect of Spain and Italy** for the invitation to hold a meeting of the select group in Madrid and Rome;

**noted** that the decision concerning the venue of the meetings would be taken at a later stage, according to the rules of the Council of Europe.

**APPENDIX I**

**AGENDA**

**1.** **Official addresses**

         The Right Honourable The Lord Thomas of Cwmgiedd - Lord Chief Justice of England and Wales

         The Right Honourable The Lord Neuberger of Abbotsbury, President of the Supreme Court of the United Kingdom

         Mr Philippe Boillat, Director General of Human Rights and Rule of Law of the Council of Europe

         The Right Honourable The Lord Justice Richard Aikens of the Court of Appeal of England and Wales

         Mr Bart van Lierop, President of the CCJE

         Ms Hanne Juncher, Head of the Department of Justice and Legal Cooperation, Directorate General  of Human Rights and Rule of Law, Council of Europe

**2.** **Adoption of the agenda**

**3.** **Information by the President, the CCJE members and the Secretariat**

**4.** **CCJE Opinion No. 18(2015)**

* Examination, in view of its adoption, of draft Opinion No. 18 on “The position of the judiciary and its relations with the other powers of state in a modern democracy”

**5.** **Situation of the judiciary and judges in the Council of Europe member States**

* Examination, in view of its adoption, of the updated version of the “Situation Report on the judiciary and judges in the Council of Europe member States” – 2015 Edition
* Follow-up to the report by the Secretary General of the Council of Europe: “The state of democracy, human rights and the rule of law in Europe”
* On-going CCJE/CCPE process for preparing a draft “comprehensive review of the main challenges for judicial impartiality and independence in the member states”
* Discussion on the preliminary findings prepared by the CCJE Bureau and the scientific expert, Anne Sanders

**6.** **Terms of Reference for 2016 and 2017**

**7.** **Working methods of the CCJE**

* Election of the President and of the Vice-President of the CCJE
* Possible election of a member of the CCJE Bureau
* Appointment of the CCJE’s Working Group for 2016
* Appointment of the CCJE Gender Equality Rapporteur for 2016

**8.** **Calendar of the CCJE and CCJE-GT in 2016**

**9.** **Any other business**

**APPENDIX II**

**LIST OF PARTICIPANTS**

**MEMBER STATES / ETATS MEMBRES**

**ALBANIA/ALBANIE:**

Ms Arjana FULLANI, Justice, Supreme Court of Albania, TIRANA

**ARMENIA/ARMENIE:**

Mr Stepan MIKAELYAN, Cour civile d'appel de l'Arménie, YEREVAN

**AUSTRIA/AUTRICHE:**

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

**AZERBAIJAN/AZERBAIDJAN:**

Mr Khagani MAMMADOV, Judge, Supreme Court of the Republic of Azerbaijan, BAKU

**BELGIUM/BELGIQUE:**

M. Paul MAFFEI, Président de Chambre, Cour de Cassation, BRUXELLES

**BOSNIA AND HERZEGOVINA/BOSNIE ET HERZEGOVINE:**

Ms Meddzida KRESO, Judge Court of Bosnia and Herzegovina, SARAJEVO

**(Apologized/ excusée)**

Mr Dragomir VUKOJE Dr. Jur., Judge of the Court of Court of Bosnia and Herzegovina, SARAJEVO

**(Apologized/ excusé)**

**BULGARIA/BULGARIE:**

Ms Maiia ROUSSEVA, Judge, Supreme Court of Cassation, SOFIA

**CROATIA/CROATIE:**

Mr Duro SESSA, Justice of the Supreme Court, ZAGREB

**CYPRUS/CHYPRE:**

Mr Stelios NATHANAEL, Judge of the Supreme Court, NICOSIA

**CZECH REPUBLIC/REPUBLIQUE TCHEQUE:**

Mr Jiri LNENICKA, Judge of the High Court in Prague, PRAGUE

**DENMARK/DANEMARK:**

Ms Linda LAURITSEN, Judge, Court of Roskilde, ROSKILDE

Ms Lene Pagter KRISTENSEN, Judge of the Supreme Court, COPENHAGEN

**ESTONIA/ESTONIE:**

Mr Meelis EERIK, Estonian Association of Judges, Chairman, TALLINN

**FINLAND/FINLANDE:**

Mr Timo ESKO, President, Court of Appeal, TURKU

Mr Pertti NIEMINEN, Court of Appeal, TURKU

**FRANCE:**

M. Alain LACABARATS, Président de Chambre, Cour de Cassation, PARIS

**GEORGIA/GEORGIE:**

Mr Irakli ADEISHVILI, Judge, Chairman of the Chamber of Civil Cases, TBILISI

**(Apologized/ excusé)**

**GERMANY/ALLEMAGNE:**

Ms Anke EILERS, Presiding Judge, Court of Appeal, KÖLN

Mr Johannes RIEDEL, Expert, BÖRNHEIM

**GREECE/GRECE:**

Mr Gerassimos FOURLANOS, Judge of the Supreme Court, ATHENS

**HUNGARY/HONGRIE:**

Mrs Ursula VEZEKENYI, Chamber President, Civil Department, Supreme Court, BUDAPEST

**ICELAND/ISLANDE:**

Mr Helgi JÓNSSON, Supreme Court Judge, REYKJAVÍK

**IRELAND/IRLANDE:**

Mr George BIRMINGHAM, Judge, Court of Appeal, DUBLIN

**ITALY/ITALIE:**

Mr Raffaele SABATO, Councillor, Supreme Court of Cassation, Member of the Board of

Directors, School for the Judiciary, ROME

**LATVIA/LETTONIE:**

Ms Aija BRANTA, Judge, Constitutional Court of the Republic of Latvia, RIGA

**(Apologized/ excusée)**

**LIECHTENSTEIN:**

M. Dietmar BAUR, Juge, Cour de Justice, VADUZ

**LITHUANIA/ LITUANIE:**

Mr Vigintas VLŠINSKIS, Judge of the Court of Appeal of the Republic of Lithuania, VILNIUS

**LUXEMBOURG:**

M. Jean-Claude WIWINIUS, Président de Chambre, Cour Supérieure de Justice, LUXEMBOURG

**MALTA/MALTE:**

Hon. Mr Justice Tonio MALLIA, Ministry For Justice, Culture and Local Government, VALETTA

**REPUBLIC OF MOLDOVA / REPUBLIC DE MOLDOVA:**

Ms Tatiana RĂDUCANU, Judge of the Supreme Court of Justice of the Republic of Moldova, CHISINAU

**(Excused/ excusé)**

**MONACO:**

M. Jérôme FOUGERAS-LAVERGNOLLE, Premier Juge, Président du Tribunal Correctionnel, MONACO

**MONTENEGRO/MONTENEGRO:**

Ms Valentina PAVLICIC, Judge, High Court, PODGORICA

**NETHERLANDS/PAYS-BAS:**

Mr Bart van LIEROP, Vice-President Senior of the Administrative High Court for Trade and Industry *(College van Beroep voor het bedrijfsleven*), THE HAGUE

**(President of the CCJE/*Président du CCJE*)**

Mrs. Angela KAPTEIN, Senior Judge Court of Appeal, THE HAGUE

**NORWAY/NORVEGE:**

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

Ms Ingjerd THUNE, President of  Gjøvik District Court and President of the Norwegian Association of Judges

**POLAND/POLOGNE:**

Ms Katarzyna GONERA, Judge of the Supreme Court (Labour Law, Social Security and Public Affairs Chamber), member of the National Council of the Judiciary of Poland, Office of the National Council of the Judiciary of Poland, International Cooperation Department, WARSAW

**PORTUGAL:**

Mr Orlando AFONSO, Juge à la Cour Suprême, LISBONNE

**ROMANIA/ROUMANIE:**

Dr. Rodica Aida POPA, Juge Docteur en Droit, Section Criminelle de la Haute Cour de Cassation et de Justice, BUCAREST

**RUSSIAN FEDERATION** **/ FEDERATION DE RUSSIE:**

Mr Viktor V. MOMOTOV, Juge de la Cour Suprême de la Fédération de Russie, Secrétaire du Plénum de la Cour Suprême de la Fédération de Russie, MOSCOU

Ms Elizaveta VOKORINA, interpreter

**SERBIA / SERBIE:**

Ms Spomenka ZARIĆ, Judge of the Supreme Court of Cassation, BELGRADE

**SLOVAKIA/SLOVAQUIE:**

Ms Alena POLÁČKOVÁ, Judge of the Supreme Court, BRATISLAVA

**SLOVENIA/SLOVENIE:**

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

**SPAIN/ESPAGNE:**

M. José Francisco COBO SÀENZ, Magistrat, President of the 2nd Seccion at the Audiencia Provincial (Navarra), PAMPLONA

**SWEDEN/ SUEDE:**

Mr Mats MELIN, President of the Swedish Supreme Administrative Court, STOCKHOLM

Mrs Eva WENDEL ROSBERG, Chief Judge, District Court, MALMÖ

**SWITERLAND / SUISSE:**

Ms Kathrin KLETT, Juge Fédéral, 1ère Cour de Droit Civil,  LAUSANNE

**“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”/“L’EX-REPUBLIQUE**

**YOUGOSLAVE DE MACEDOINE”:**

Mrs Aneta ARNAUDOVSKA, Judge, Director of the Academy of Judges and Prosecutors, SKOPJE

**TURKEY/TURQUIE:**

Burak Turan BENLI, Judge, Foreign Affairs & Project Department, the High Council of Judges and Prosecutors, ANKARA

Mr Ramazan KAYA, Judge, Member of the High Council of the Judges and Prosecutors of Turkey, ANKARA

Mr Ozan Muzaffer KÖSTÜ, Reporter Judge, the High Council of the Judges and Prosecutors of Turkey, ANKARA

Ms Çağlayan Sayhan Soyda, Interpreter

**UKRAINE:**

Mr Viktor GORODOVENKO, President of the Court of Appeal of Zaporizhzhia Region, ZAPORIZHZHIA

**UNITED KINGDOM/ ROYAUME-UNI:**

Lord Justice Richard AIKENS, Royal Courts of Justice, LONDON

**(Vice-President of the CCJE / Vice- Président du CCJE)**

**OBSERVER STATES/ *ETATS OBSERVATEURS***

**CANADA**

Ms Judith BELLIS, General Counsel, Special Advisor to the Deputy Minister of Justice, Department of Justice Government of Canada, OTTAWA

**JAPAN / JAPON**

Mr Shun KITAGAWA, Consul, Consulat Général du Japon à Strasbourg, STRASBOURG, France

**SCIENTIFIC EXPERT / *EXPERT CONSULTANT***

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

**EUROPEAN COMMISSION / *COMMISSION EUROPEENNE***

Elsa GARCÍA-MALTRÁS, DG JUSTICE, Unit 03 General Justice policies and judicial systems, BRUSSELS

**OBSERVERS / *OBSERVATEURS***

**Council of Bars and Law Societies / *Conseil des barreaux européens* (CCBE)**

Ms Maria ŚLĄZAK, President of the Council of Bars and Law Societies in Europe – European lawyers promoting law and justice, BRUSSELLS, Belgium

**European Network of Councils of the Judiciary (ENCJ) / *Réseau européen des conseils de la justice* (*RECJ)***

Lord Justice Geoffrey VOS, President – Elect, ENCJ Office, BRUSSELLS, Belgium

Ms Monique Van der GOES, Director, ENCJ Office, BRUSSELLS, Belgium

**European Judicial Training Network (EJTN) / *Réseau européen de formation judiciaire* (*REFJ)***

Mr Wojciech POSTULSKI, Juge, Secrétaire Général, BRUXELLES, Belgique

***Magistrats européens pour la démocratie et les libertés*** **(MEDEL)**

Mme Dragana BOLJEVIC, Secrétaire Générale, BERLIN, Allemagne

**Association of European administrative judges/ *Fédération européenne des juges administratifs***

M. Pierre VINCENT, Juge, Cour Administrative d’Appel de Nancy, NANCY, France

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

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

**DG I – Directorate General Human Rights  and Rule of Law / *DG 1 – Direction Générale des droit de l’Homme et état de Droit***

M. Philippe BOILLAT, Director General / *Directeur Général*

Mme Hanne JUNCHER, Head of Justice and Legal Co-operation Department / *Chef du Service  de la coopération judiciaire et juridique*

M. Stéphane LEYENBERGER, Head of Division for the Independence and efficiency of Justice,    Secretary to the CCJE / *Chef de la Division pour l’indépendance et l’efficacité de la Justice*, *Secrétaire du CCJE*

Mr Artashes MELIKYAN, Co-Secretary of the CCJE /*Co-Secrétaire du CCJE*

Mme Anna KHROMOVA, Assistant / *Assistante*

Mme Marie-José SCHUTZ, Assistant/ *Assistante*

M. Jean-Pierre GEILLER, Documentalist/ *Documentaliste*

Mme Annette SATTEL, Administration et Réseaux / *Administration and Networks*

**INTERPRETERS / *INTERPRETES***

Catherine KENNEDY

Françoise COMTE