

**The 2nd Congress on the World Conference on Constitutional Justice, Rio de Janeiro,
Brazil**

16-18 January 2011

Summary and Conclusions of Discussions

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The 2nd Congress on the World Conference on Constitutional Justice was organized by the Federal Supreme Court of Brazil and held in Rio de Janeiro. It follows the 1st World Conference on Constitutional Justice that was held in Cape Town, South Africa during January 23-24, 2009. In the second Congress, there were 88 Constitutional Courts and equivalent bodies including Constitutional Councils, and Supreme Courts of constitutional jurisdiction from all over the world to discuss “Separation of Powers and Independence of Constitutional Courts and Equivalent Bodies”.

The delegation representing the Constitutional Court of Thailand was led by Mr.Chut Chonlavorn, President of the Constitutional Court and Justices Mr.Charoon Intachan, Mr. Chalermpon Ake-uru, Mr. Nurak Marpraneet, Mr.Suphot Khaimuk, and Mr.Udomsak Nitimontree.

Participants of the World Conference were then divided into regional and linguistic groups to discuss the draft statute of the World Conference on Constitutional Justice. The delegation from Thailand took part and made recommendations in the Association of Asian Constitutional Courts and Equivalent Institutions with Mr Kang-Kook Lee, President, Constitutional Court, Republic of Korea as chair of the working group.

The keynote speech on “Separation of Powers and Independence of Constitutional Courts and Equivalent Bodies” was given by Mr. Christoph Grabenwarter, Judge, Constitutional Court, Austria, Co-President of the Joint Council on Constitutional Justice of the Venice Commission. With the chair of this session, Mr Sandile Ngcobo, Chief Justice, Constitutional Court, South Africa it was conveyed that the world’s tendency is to accept the Constitutional Court’s existence as an institution that promotes positive legislation in terms of *constitutional review, making recommendations to new laws that are legislated into society, and supporting the legislative process*. There are 5 factors that promote the independence of the Constitutional Court include: 1) ethical standards of the constitutional court judges 2) constitutional culture 3) public relations with the general public 4) rulings that protect the rights of the individuals and 5) cooperation between international constitutional courts. The development of the constitutional courts in the world reflects the importance of the constitutional court in the justice system and governance in a democracy.

The Congress then split into 3 working groups to discuss the first topic in accordance with the thematic division of the concept paper: “The independence of the Constitutional Court as an institution”. In this session, Mr. Gilmar Mendes, Judge , Federal Supreme Court, Brazil was chair and M. Robert Dossou, President, Constitutional Court, Benin rapporteur. *It was accepted by participants of the working group that the independence of the constitutional court as an institution protects the supreme laws of the constitution. With this status, there needs to be independence in the rules and regulations of the constitutional court, independence in budgeting, independence in management of its affairs, independence in the discipline and conduct of the judges themselves, enforcement of the rulings, and communicating the rulings to the public.*

Under the second topic “The independence of the individual judge”, Mr Ian Binnie, Justice, Supreme Court, Canada chaired the session with M. Rui Moura Ramos, President,

Constitutional Court, Portugal as the rapporteur. It was agreed among the working group that factors that contribute to independence included the selection process of judges from government *agencies*; the creation of the criteria for knowledge, skills, and experience from applicable careers; determining the retirement age and term of office; determining the appointment, removal, and discharge without *will* from the judge; independence from influences when making a ruling; assigning a suitable compensation for the duties and responsibilities of the judge; protecting and giving due *respect and authority* to the judge; and banning the judge from other conflicting positions or duties.

The input and contributions of the participants reflect the experiences of world constitutional courts in promoting unbiased rulings.

With respect to the third topic “The court’s operating procedures as a guarantee of independence”, delegates from Ibero American constitutional courts chaired the session while Mr Mohammed Habchi, Judge, Constitutional Council, Algeria was rapporteur. Main extracts from the discussions were that the constitutional court of each country has the authority to determine the rules and regulations in approaching a case and giving a ruling. It is an important tool in the judicial process that include *the submission of the case by the eligible party, the consideration of the facts and issue of the case, the development of regulations or prohibitions against the infringements and influences in the processing of a case of the constitutional court, and the acceptance of different opinions of the constitutional judges.*

The final session of the second congress with Mr. Gianni Buquicchio, President of the Venice Commission as chair, Mr. Schnutz Rudolf Dürr, Head of the Constitutional Justice Division of the Venice Commission presented the draft statute of the World Conference which the meeting had agreed on the principles and ideas for the cooperation between members as an institution. It was suggested that working groups be set up to study and develop regional groups which will lead to the endorsement of the draft statute during the 3rd World Conference on Constitutional Justice in South Korea.

In conclusion, the 2nd Congress on the World Conference on Constitutional Justice was a venue to exchange views and experiences which will lead to future cooperation of its members. It promotes the development of democratic rule, legislative law, and human rights which form the essence of the constitution which is internationally accepted by the participants of this conference.