



**3rd GENERAL ASSEMBLY OF THE CONFERENCE OF CONSTITUTIONAL
JURISDICTIONS OF THE PORTUGUESE-SPEAKING COUNTRIES (CJCPLP)**

“Constitutional Courts and the protection of fundamental rights”

**Benguela, Angola
2-3 June 2014**

Opening speech

**Mr Gianni Buquicchio
President of the Venice Commission**

*President of the Constitutional Tribunal,
Honourable judges,
Your Excellences,
Ladies and Gentlemen,*

It is a pleasure to be in Benguela today, the bustling capital of the Benguela Province, to represent the Venice Commission of the Council of Europe at the Third General Assembly of the Conference of Constitutional Jurisdictions of the Portuguese-Speaking Countries (the CJC-PLP).

The Venice Commission has worked together with the countries of this Conference in the context of the First World Congress of the World Conference on Constitutional Justice in Cape Town in 2009 - before the CJC-PLP was even established.

But the official co-operation between the Conference and the Venice Commission really began with the signature of the Co-operation Agreement in Maputo two years ago in May 2012.

Your Conference is also one of the founding regional groups of the World Conference on Constitutional Justice - known as the WCCJ - which promotes constitutional justice, understood as constitutional review including human rights case-law as a key element for democracy, the protection of human rights and the rule of law (Article 1.2 of the Statute).

According to the WCCJ's Statute, which entered into force on the 24th of September 2011, your Conference is one of the members of the WCCJ's Bureau.

The Constitutional Courts or courts with equivalent jurisdiction of four out of your Conference's member states have already joined the WCCJ, notably:

- the Constitutional Court of Angola,
- the Federal Supreme Court of Brazil,
- the Constitutional Council of Mozambique, and
- the Constitutional Court of Portugal.

I would therefore like to take this opportunity to encourage the other four to join the WCCJ as well! *[i.e. Cape Verde, Guinea-Bissau, São Tomé & Príncipe and Timor-Leste]*

Following the WCCJ's two first congresses in Cape Town and in Rio de Janeiro, I hope that I will have the pleasure of greeting all of you at the Third Congress of the WCCJ, hosted by the Constitutional Court of Korea, in Seoul on 28 September to 1st October 2014.

*President of the Constitutional Tribunal,
Ladies and Gentlemen,*

You have chosen an interesting topic for this event: *“Constitutional Courts and the protection of fundamental rights”*.

The Venice Commission is part of the Council of Europe and the protection of human rights is one of the three pillars of this organisation, the other two are democracy and the rule of law.

In Europe, it is the European Convention on Human Rights through which the Council of Europe provides an effective protection of these rights.

But, the protection of human rights must begin at the domestic level and this is where the role of the constitutional court is crucial.

States, for the most part, secure the protection of human rights through their constitutions.

As the constitutional court is known as the guarantor of the constitution - protecting constitutionally guaranteed rights through constitutional review – it is important that this court be able to carry out its task effectively.

The Venice Commission has always been and remains a fervent supporter of constitutional courts. It has always promoted specialised constitutional review and the establishment of these courts in its member states.

Most constitutional courts in Europe have developed an extensive case law on the protection of fundamental rights over the years. New constitutional courts have to find their own path and develop their own case law to protect individuals against the excesses of state power.

However, they can seek inspiration from the case-law of other constitutional courts from around the world through what we like to call “cross-fertilization”.

“Cross-fertilization” means that the constitutional courts or courts with equivalent jurisdiction share their case law and their experience notably through the Venice Commission’s database known as CODICES.

By virtue of our co-operation agreement, the member courts of the CJC-PLP can participate in the exchange of their case law, but can also do so with all other constitutional courts world-wide through CODICES and the Venice Forum Newsgroup.

CODICES contains the most important judgments of the courts, in summary form, in either English or French together with the original judgment. In your case, the original judgment would be in the Portuguese language.

What we call the “Venice Forum Newsgroup” is a platform that allows you to inform the other courts that take part in it, about the appointment of new Court presidents, but also about important judgments. You can also post questions to other courts through the Newsgroup web-site.

In order to participate in this exchange of information, you should appoint one or two liaison officers from your court that will be given the task of sending English or French summaries of a selection of important judgments rendered by your Court to our Secretariat in Strasbourg.

We will of course explain this task to the newly appointed liaison officers and, if need be, we can also train them.

The Constitutional Court of Portugal and the Federal Supreme Court of Brazil regularly contribute to CODICES. We have received a few summaries from the Constitutional Council of Mozambique, but we need more regular contributions to CODICES also from your Tribunal.

Therefore, I call upon all Courts that have not yet done so to appoint liaison officers and to contribute regularly to the exchange of case-law. Our co-operation agreement provides an opportunity to all of you, which should not be missed.

Ladies and Gentlemen,

Without going into too much detail - it is clear that, on the domestic level, the protection of fundamental rights will depend on the system of constitutional justice the country has chosen.

In some, the individual has direct access to the court, usually after having exhausted all other internal legal remedies.

In others, concrete norm control is used to obtain a preliminary ruling on a question of constitutionality that may arise from ordinary courts when they have to apply legislation that is deemed unconstitutional.

Constitutional courts are the custodians of these fundamental rights.

Their role is an important one, and when member states of the Venice Commission establish such a court, we consistently insist that these courts be:

- independent,
- endowed with a wide jurisdiction,
- and be accessible to individuals so as to be able to provide an effective remedy against human rights violations.

Ladies and Gentlemen,

I would like to end by thanking the Constitutional Tribunal of Angola for organising this event and I would like to wish us very fruitful and inspiring discussions!

Thank you for your attention.