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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**GUIDELINES RELATING TO THE WORKING METHODS
OF THE VENICE COMMISSION**

**Adopted by the Venice Commission
at its 84th Plenary Session
(Venice, 15-16 October 2010)**

I. Introduction

1. Within the framework of the reflection on the Commission's working methods, a working group was set up, composed of: Mr van Dijk, Chair of the Sub-Commission on Working methods; Mr Buquicchio, Mr Bartole, Ms Flanagan, Mr Jowell, Ms Koufa, Ms Haller, Mr Helgesen, Mr Hoffmann-Riem, Mr Mifsud-Bonnici, Mr Paczolay, Mr Sejersted and Mr Sorensen.
2. The working group met in Paris on 1 October 2010; all members were present with the exception of Mr Jowell and Mr Bartole. The present proposals were discussed and agreed by the group in the course of that meeting.
3. These proposals are meant to be guidelines, to be applied with a certain degree of flexibility. They will be fully applied as of January 2011 and will be reassessed at regular intervals.

II. Proposals

A. The Presidency, Bureau and Enlarged Bureau

- Every two years the Plenary elects the President of the Commission, three Vice-Presidents and four members, who together constitute the Bureau; [see art. 4 of the Statute]
- the Enlarged Bureau consists of the Bureau, supplemented with the chairs of the Sub-commissions; the President also presides the Enlarged Bureau;
- the elections will be prepared by a "committee of wise persons" elected by the Plenary on the proposal of the Enlarged Bureau;
- the Enlarged Bureau meets prior to each Plenary Session, on Thursday afternoon, and at any other time on the invitation of the President or at the request of three members;
- if meeting at the Scuola Grande would interfere with a meeting of a sub-commission, the Enlarged Bureau meets at a different location, if necessary without translation facilities.

B. The Plenary

- The Commission meets four times a year in Venice as Plenary on dates proposed by the Secretary and decided by the Commission;
- the agenda of the session and the documents to be discussed are circulated among the members two weeks in advance at a minimum; the President, in exceptional cases, may decide that a certain item or document may be added at a later date;
- the Plenary Session starts at 9 a.m. on both session days;
- the order of the agenda items is decided by the President;
- the President shares the chair with the Vice-Presidents according to a schedule agreed upon beforehand on the basis of the agenda items;
- the chair of the meeting ensures that the discussions proceed smoothly and that sufficient time is devoted to substantial issues;
- oral communications are subject to a time limit set by the chair in advance; they may be replaced by written contributions to be circulated in advance among the members;
- in case there is more than one rapporteur, as a rule the draft opinion or draft report is presented by only one of them as agreed beforehand;
- if more than one rapporteur wishes to give a presentation, the rapporteurs must discuss this in advance to avoid repetition;
- the presentation by the rapporteur is subject to a time limit set by the chair;

- as a rule, if a member of the Commission has substantial objections in relation to a draft opinion or draft report which has been circulated for the purpose of discussion at the Plenary, he or she should inform the rapporteurs prior to the Plenary;
- to the extent that it is possible, suggestions relating to the wording of the opinions and reports should be submitted to the rapporteurs or the secretariat in writing, prior to the Plenary session;
- opinions which, on the recommendation of the chair of the competent sub-commission, are assumed to be unlikely to raise discussion may be adopted at the Plenary without previous presentation and without debate; a proposal to that effect by the President will be indicated on the agenda; any member may, however, request discussion at the Plenary; if possible, such a request should be made before the beginning of the session;
- oral presentations by guests and observers will be agreed in advance by the President of the Commission.

C. The Scientific Council

- Every two years the Plenary decides on the composition of the Scientific Council at the proposal of the Enlarged Bureau;
- the First Vice-President of the Commission will be *ex officio* President of the Council;
- the President of the Commission is *ex officio* member of the Council;
- three other members of the Council are elected from among the chairs of the sub-commissions;
- the other Vice Presidents and the chairs of the other sub-commissions may indicate their interest to participate in the work of the Council;
- the Deputy Secretary of the Commission will be secretary to the Scientific Council;
- it shall be the Scientific Council's primary responsibility to contribute to the high quality and the consistency of the Commission's studies and opinions;
- the Scientific Council, as a matter of priority, prepares restatements of the Commission's doctrine in specific areas, to be submitted to the Plenary for adoption;
- the Council takes stock of the dissemination and implementation of the opinions and reports of the Commission;
- the Council proposes to the Commission the studies that should be undertaken and which of these should have priority; these studies will not only address European law and standards in their current form but also their development; the studies will, as a rule, contain a comparison of the relevant law and practice of the member States;
- the Council proposes to the Commission which UniDem seminars should be held and prepare a priority list for each coming year;
- the Council is responsible for the publication of the Science and Technique of Democracy series;
- the Council will endeavour to provide rapporteurs with information on the Commission's doctrine and other relevant scientific material for the purpose of the preparation of opinions and reports;
- the Council meets at the initiative of the President of the Council, or at the request of the President of the Commission or three members of the Council.

D. The sub-commissions

- Every two years, the Plenary decides on the number and chairs of the sub-commissions at the proposal of the Enlarged Bureau;

- Members indicate to what sub-commission or sub-commissions they wish to belong on the basis of their interest and specialization;
- those members who join a sub-commission commit themselves to an active involvement in its activities and to attending its meetings;
- participation in the meetings of the sub-commissions is open to all interested members;
- as a rule, all draft studies will be discussed by the competent sub-commission before their discussion in the Plenary; draft opinions may be discussed by sub-commissions when this is deemed necessary by the rapporteurs or by the chair of the relevant sub-commission;
- sub-commissions are convened by decision of the chair of the sub-commission concerned, either on his or her own motion or at the request of a rapporteur;
- sub-commissions meet as a rule in Venice on the Thursday preceding the Plenary, or at such other time or place as the chair may decide with the approval of the President of the Commission; translation facilities will be provided if possible but the sub-commission may meet without interpretation facilities if none can be arranged.

E. The preparation of opinions and studies

- opinions and studies are prepared by one or more rapporteurs (i.e. a working group); the rapporteurs are appointed by the Secretary; the President of the Scientific Council is informed about these appointments;
- the secretariat and the rapporteurs consult the President of the Scientific Council as to whether it is appropriate to call in an external expert or conduct a comparative analysis of national legislation;
- requests for opinions and studies and the composition of the relevant working groups are communicated to the members of the Commission (including via regular Members' Updates); any member of the Commission may indicate his or her interest in becoming a member of a particular working group, provided that he or she is in a position to actively participate within the relevant time-frame;
- the Secretary provides the rapporteurs and working groups with adequate staff support;
- the rapporteurs are provided as early as possible with all the information which will enable them to provide their assessments (see below, "information sheet");
- the rapporteurs and experts meet, if necessary, between sessions at locations to be approved by the Secretary; the chair of the sub-commission concerned and the President of the Scientific Council are informed and may attend these meetings;
- the rapporteurs may decide on a fact-finding mission to the country concerned and on who will participate in consultation with the President; the Secretary of the Commission decides on the setting-up of staff-missions;
- the rapporteurs will present their observations and text proposals in due time to enable the Secretariat to prepare a draft (consolidated) opinion within the time limit previously agreed upon;
- draft opinions which the rapporteurs deem ready for plenary discussion are circulated among the members of the Commission at least two weeks before the date of the Plenary; in exceptional cases the President may permit circulation within those two weeks.
- As a rule, draft opinions ("CDL" documents) are restricted documents; they become public after their adoption by the Commission at a Plenary Session ("CDL-AD" documents), and are subsequently formally transmitted to the national authorities or to the requesting body and published on the Commission's website;
- When the national situation so requires, the President, in consultation with the Bureau, may authorise that the rapporteurs' unendorsed/unadopted opinion be sent to the national

authorities prior to its adoption/endorsement at the Plenary; in such cases, the draft opinion is subsequently presented to the Plenary for endorsement/adoption by the Commission.

F. Enlargement

- Enlargement matters are discussed by the Enlarged Bureau, from an early stage onwards.
- The Enlarged Bureau may make recommendations to the Committee of Ministers.

G. Practical matters concerning the Secretariat

- The Secretariat informs all members on requests for opinions or studies as soon as the requests are made, notably via the Members' Update; addition, the Secretariat personally informs those members who have previously indicated to the Secretariat that the matters in issue in the opinion are within their area of interest or expertise/specialisation;
- it proposes a time schedule for the preparation of the draft opinion or draft study;
- shortly after the appointment of the rapporteurs, the secretariat provides them with an "information sheet" (see annex) containing the background information on the request, the relevant national legislation, an indication of the applicable standards and Commission's previous relevant works, and the time-frame and conditions (including the possible need for a visit) for the preparation of the opinion;
- to the extent that this is possible, it ensures that draft opinions are checked by a native speaker for their legal language and for their English and/or French before being sent out for approval;
- the Secretariat tries to obtain good-quality translations of national legal texts to be assessed, or tries to clarify rapporteurs' doubts arising out of translations;
- the President and Vice-Presidents will be jointly briefed by the Secretariat during the Plenary;
- the President of the Commission and the President of the Scientific Council will be regularly briefed by the Secretariat on ongoing activities.
- All members will be kept informed about topical developments, new requests, on going work etc. through regular Members' Updates;
- the Secretariat will provide members and in particular newcomers with a "Quick Guide" containing detailed explanations about the work and the working methods of the Commission as well as about the Plenary Session;
- the Secretariat will endeavour to circulate documents in a user-friendly manner.

INFORMATION SHEET

Opinion no.

Title of the opinion

Due: indication of the scheduled plenary session

Rapporteurs:

Secretariat member

- the request:
 - wording
 - interpretation (if necessary)
 - scope (and limitations)
- relevant national law and fact
- relevant material for the assessment
 - ECtHR case-law and other relevant legal sources
 - CoE documents, recommendations
 - Previous VC opinions and documents
 - Relevant comparative material
- issues of potential importance
 - preliminary notes on issues of which the rapporteurs should be aware
 - controversies
 - political sensitivities
 - etc.
- possible preliminary assessments (if possible)
 - e.g. an indication of how the VC has responded to requests and cases of this kind
- practical matters
 - time-schedule
 - need for mission