

**ADDRESS OF MR GIANNI BUQUICCHIO, PRESIDENT OF THE VENICE COMMISSION,
TO THE NATIONAL ASSEMBLY OF ARMENIA**

5 October 2015

Mr. Speaker, Members of Parliament,
Members of the Specialised Commission on Constitutional Reforms,

Ladies and gentlemen,

It is a great honour for me to have been invited to convey a message to the National Assembly of Armenia today, on the day of the final voting on the amendments to the constitution of Armenia.

Armenia and the Venice Commission - Armenia and I - have a long history together. Our first co-operation on constitutional reforms dates back to 2001. At that time, we gave a fairly positive opinion on the text submitted to us. However, as you all know, the constitutional referendum of May 2003 failed. I remember the turmoil in Armenia. I remember that many Armenians were disappointed.

The Venice Commission was again consulted during the reform of 2004/2005. I came to Yerevan in January 2004 for the launching of the constitutional reform process. At that time, the opposition boycotted parliament; it demanded a big change for Armenia: a parliamentary regime, while the ruling coalition wished to maintain a semi-presidential one. I reminded the National Assembly that the Venice Commission has repeatedly emphasised that any regime – be it presidential, semi-presidential or parliamentary – may be brought into harmony with democratic standards, provided that the Parliament be given sufficient controlling powers with regard to the executive branch.. The choice is therefore a fundamental and a fundamentally political one that belongs exclusively to the people of the country in question, through its elected representatives and in some countries, like Armenia, also directly, through a referendum.

In January 2004, I pleaded for a constructive compromise: I invited the opposition to find a viable Armenian formula, to work on a constitution with sufficient checks and balances to bring the semi-presidential regime as close as possible to the parliamentary one to which they aspired, to produce a constitution which would be as progressive as possible. One day, I argued, the time would be ripe for Armenia to move to a parliamentary regime. Until that time, I invited all the political parties to give the constitution a chance to function in a democratic fashion.

Ten years later, the question of the choice of the right political regime for Armenia has come back again. This time, a rationalized parliamentary regime is being proposed. It is up to you, today, to make this choice or not.

The functioning of each form of government is strictly linked to the electoral system. In parallel to the shift to a parliamentary regime, a shift towards an exclusively proportional system, corrected through a possible majority bonus, has been proposed in order to guarantee stability, hence governability. This question has raised heated debates in your country. Whether to give preference to the parliamentary function of representing the people or to that of legitimising the executive is, again, a fundamentally political choice, which belongs exclusively to the people. The Venice Commission, however, does not think that the choice of the electoral system should

be cemented in the Constitution. The proposed draft amendments now leave the final choice to the electoral law to be adopted after the constitutional reform.

Ladies and Gentlemen,

I have spoken about the new form of government proposed by the draft amendments. But the draft amendments also contain a very modern catalogue of human rights, in line with European and international standards; strengthen the independence of the judiciary; strengthen the legitimacy of the Constitutional Court; provide for guarantees of independence of important state bodies: the Central Electoral Commission, the Television and Radio Commission and the Control Chamber. This text is, once again, an Armenian product. It has been prepared by some of the finest Armenian legal brains, taking into account the constitutional history of Armenia. I think I can say that the Venice Commission's advice is part of the constitutional history of Armenia: and this text relies on the past and more recent opinions by the Venice Commission.

Dear Speaker, dear Members of parliament,

Constitutional reform is the result of a specific historical and political moment. It undoubtedly serves many purposes and many agendas. It may be prompted by political will, by a demand of the society, by international pressure, or by all or a combination of these factors.

It is not for the Venice Commission to decide whether it is the right time for this reform, or what its direct and indirect purposes are.

Irrespective of the reasons that have prompted it, when it meets European and international standards, a constitutional reform may be a great opportunity. With time and with democratic practice, new constitutional rules may be driving forces for a society to develop and for a country in transition to achieve a higher level of democracy.

Dear Speaker, dear Members of parliament,

The choice is yours, today.

If you have reached a broad political consensus and choose to adopt these amendments, the final choice on whether or not to proceed with this reform will then belong to the Armenian people, through the referendum. I cannot but underscore that this referendum must meet international standards and must reflect the genuine will of the Armenian people.

I wish you all and the Armenian people all the best for your future within the big democratic family of the Council of Europe.