



Strasbourg, 12 September 2012

**Address by Mr Gianni BUQUICCHIO,
President of the Venice Commission,
presenting its Annual Report of Activities for 2011
to the Committee of Ministers**

Ms Chairperson, Ambassadors, Ladies and Gentlemen,

The presentation of our Annual Report of Activities takes place - once again at a late stage of the year. This encourages me to be very concise with respect to our activities in 2011 and to mainly focus on our current activities and perspectives for the future.

This seems to me all the more justified since at present the geographical scope of our activities is changing more quickly than ever before.

With respect to 2011, the Venice Commission adopted more than 50 opinions and studies of transnational interest, organised three UniDem Campus seminars for civil servants and about 30 other conferences and seminars, it dealt with around 30 comparative law research requests from Constitutional Courts and issued 7 publications.

This is quite an achievement, having regard to our modest budget and small Secretariat, which has to shoulder this heavy burden of work.

We were involved in constitutional reform processes in Bosnia and Herzegovina, Hungary, Moldova, Montenegro and Ukraine and dealt with legislative texts from 15 countries.

With respect to the texts of transnational interest, I'd like to draw your attention to our report on the rule of law, which contains a checklist for assessing the state of the rule of law in a country. In this way we are trying to make this concept operational.

This operational approach to the rule of law was discussed at a large international conference, which we and the UK organised in London last March within the framework of the UK Chairmanship of the Committee of Ministers. Using the core content of the rule of law as an interpretive tool for assessing the actual situation in a given country may add to the traditional tools provided by the other two pillars of the Council of Europe – democracy and human rights.

The Venice Commission has already started to implement this approach for example in our opinion on the rule of law in Bosnia and Herzegovina, adopted at the request of the European Union, which outlines a number of legal reforms to strengthen the rule of law in this country.

The Secretary General has very recently referred to compatibility with the rule of law in a request concerning Romania. As announced by Ambassador Fuller last June, the Venice Commission intends to further develop the checklist on the rule of law and present it to you in due course.

Ms Chairperson, I would also like to take this opportunity to thank the Albanian authorities for having organised within the framework of their chairmanship at the beginning of July in Tirana a conference on “The European Electoral Heritage: Ten years of the Code of Good Practice in Electoral Matters”. This was a most useful event in order to take stock of the implementation of the Code of Good Practice.

Ladies and Gentlemen,

Let me now turn to the present situation and the evolution in the geographical scope of our activities. The most obvious aspect of this change is our co-operation with a number of Arab countries which has become a reality over the past year.

Let me, however, first address less obvious but nonetheless significant developments with respect to our role within Europe. Here we have been able to re-establish or intensify our co-operation with countries that had not been the focus of our activities over the years before.

First of all, I would like to mention, in this respect, the Russian Federation. At the request of the Parliamentary Assembly our Commission adopted 5 opinions on important and sensitive laws of this country.

I am pleased to note that we worked constructively with the Russian authorities in this context, thanks in particular to the Russian Permanent Representation.

We will co-organise at the end of the month, together with the Constitutional Court of the Russian Federation, an important conference in Saint Petersburg on “Political parties in a democratic society.”

Secondly, it is probably for the first time that several of our most important opinions concern member states of the European Union, notably Hungary and Romania. While we co-operated with Hungary in the 1990s and our co-operation with Romania has been constant, our more recent activities there were of a more technical nature, as is typical for opinions on EU member States.

By contrast, some of our new opinions on Hungary and the forthcoming opinion on Romania deal with extremely sensitive issues.

In addition, the Commission adopted a very important opinion on the constitutional situation in Belgium.

The assumption that the role of the Venice Commission would be largely limited to EU non-member states in Eastern and South Eastern Europe has been proved wrong.

The Venice Commission, and the Council of Europe as a whole, have an important role to play in EU member states. Indeed, the recent events show that there is no other international organisation that can play the crucial role of flagging rule of law issues in Europe on the basis of an objective expert assessment.

The opinions on Hungary and Romania also confirm the importance of adopting a concerted approach by Council of Europe organs and bodies. The Secretary General not only invited the Hungarian authorities to ask the Venice Commission for opinions but also took an important political role to ensure their implementation.

It was the Secretary General who asked the Commission to adopt an opinion on the situation in Romania, with the government subsequently making a more specific request. PACE made several requests for opinions to the Venice Commission on Hungary and its President and the Presidential Committee took an active role in Romania as well.

The most important of our opinions on Hungary is certainly the opinion on the judiciary adopted in March. In this opinion we expressed serious concerns about the new legislation. Fortunately this legislation has already been amended to take account of part of our recommendations. We will assess at our October session, at the request of PACE, whether these amendments should be considered as sufficient.

Concerning Romania, a delegation of the Commission was in Bucharest until yesterday and it would be premature for me to enter into any substance at this point. I would nevertheless like to appeal to all political forces and state organs of Romania to now bury the hatchet and to work together in a constructive manner in the interest of the country.

Ms Chairperson,

If I have put emphasis on the renewal of our co-operation with a number of partner countries, this does not mean that we no longer have a heavy workload with our traditional main partner countries.

With respect to your own country we have adopted an opinion on the draft Electoral Code together with ODIHR last year and we will prepare an opinion on the adopted text as soon as we receive the request.

In other countries many challenges remain:

- In Ukraine we were invited to take part in the work of the Constitutional Assembly, which will certainly intensify after the forthcoming elections.
- With respect to Moldova I would like to recall that the constitutional crisis, which fortunately has been resolved, showed a number of flaws in the Constitution which should be addressed now, when the situation is calm.
- In Georgia the authorities have committed themselves to address the issue of the unequal electoral districts in co-operation with the Venice Commission after the elections of next month.
- In Azerbaijan there is also clear room for improvement in the electoral field and other legislative texts.
- In Armenia we hope to continue our constructive co-operation with the authorities on legislative texts.
- In Bosnia and Herzegovina, constitutional reform remains essential, not only to implement the Sejdic and Finci judgment of the ECtHR.
- In Montenegro we will be involved in the constitutional reform in the area of the judiciary and the new legislation on religious communities.
- In Turkey we hope to be involved in the process of drafting a new Constitution, building on our co-operation with the authorities in the area of judicial reform.

Ms Chairperson,

There can be no doubt that the Venice Commission has an important role to play in Europe and we are determined to continue to play this role with our usual speed and efficiency. Concerns have been voiced that our new activities in the Council of Europe neighbourhood might have a detrimental effect on our European activities.

I would like to underline that, thanks to its flexible working methods, the Commission, despite its heavy workload, has always been able to cope with all

requests from our member states. I would like to add my personal commitment that, as long as I am President of the Commission, we will never refuse a request made by a European member State due to activities carried out in the Council of Europe neighbourhood.

Our priority is – and remains – Europe.

We are, however, also conscious that it would be irresponsible not to take the opportunity provided by the Arab Spring and contribute to the democratic development there. And we have been quite successful in launching co-operation with Tunisia, Morocco and – to a lesser extent – Jordan.

With respect to Tunisia, we have achieved rather more than could be expected. We had intense discussions on a large number of constitutional issues with the National Constituent Assembly in June in Venice and in July in Tunis.

These discussions were very fruitful and we expect to continue with them on the basis of concrete texts to be prepared by the Constituent Assembly. We clearly managed to gain the trust of the members of the Constituent Assembly and to convince them that we can share with them very useful experiences without wishing to impose European models. There were even indications that the Assembly might ask for a formal Venice Commission opinion on the text of the draft Constitution.

This would go beyond our expectations. We are conscious that we have to work in a different manner in non-European countries. These countries are not part of the process of European integration and not bound by specifically European standards.

In the Southern neighbourhood the context is particularly sensitive for historical reasons and countries are very much attached to their sovereignty. The adoption of formal Venice Commission opinions on legislation in these countries will therefore remain exceptional and in most cases we will stick to an exchange of experiences and information.

With respect to Morocco, we are starting co-operation in a number of areas in order to implement the constitutional reform already adopted. This concerns, in the initial phase, the role of the Ombudsperson institution, decentralisation in co-operation with the Congress of Local and Regional Authorities and constitutional justice.

This co-operation has only been possible thanks to generous contributions from a number of member states: Turkey, France, the Netherlands and more recently Norway and Italy.

I would like to ask the ambassadors of these countries to convey to their authorities our sincere gratitude. The recent contributions from Norway and Italy make it possible for us to carry out our co-operation with both countries.

By contrast, if we manage to establish co-operation with Jordan, this will be possible only with the financial support of the European Union. The European Union is also the main sponsor of our activities in Central Asia, in addition to a voluntary contribution from Finland, for which we are also very grateful.

I should also thank Luxembourg which has very recently made a financial contribution, leaving it to the Commission to decide on its use.

Another decisive factor for the success of our activities in Tunisia and Morocco is our very close co-operation first of all with the Parliamentary Assembly but also with the Congress. With respect to PACE I'd like to pay tribute in particular to the energetic role of the rapporteur on Tunisia, Ms Anne Brasseur.

I believe that broad and public co-operation between Council of Europe bodies is very important: it conveys the image of the Council of Europe as a united, coherent organisation with a global strategy implemented by each of its bodies in its own field of competence.

Ms Chairperson,

Before I conclude I cannot fail to mention the World Conference on Constitutional Justice. The Venice Commission is the driving force behind the establishment of this body and I am very pleased to inform you that, following the Second Congress of the World Conference held in Rio de Janeiro in January last year, the Statute of this body was approved and has entered into force. Within a bit more than a year 59 Courts have already joined the World Conference.

Finally, a word on the resources of the Commission. How are we able to carry out such a multitude of activities? I cannot hide from you that this is indeed a constant balancing act that puts a great strain on our Secretariat.

This balancing act also includes a constant review of our activities to identify those that are priorities and those that seem no longer as relevant in the current situation.

We have reduced our support for constitutional court seminars and our Vota data base was transferred to the Electoral Court of Mexico, which shows that non-European member states are often an asset rather than a strain on our resources.

We are also giving priority to opinions on specific countries over reports of a general character, unless the adoption of such reports corresponds to an urgent need.

I am confident that the Venice Commission will continue to be able to play its many-faceted role with success, especially if we have your continued support.

Thank you very much, Ms Chairperson. I am at the disposal of the Committee for any questions you may have.