



Strasbourg, 16 January 2001

<cdl\doc\2001\cdl\6-e>

Restricted
CDL (2001) 6
Or. fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

ARMENIA

MEMORANDUM

PROGRAMME OF CO-OPERATION WITH ARMENIA

**Approved by the Commission
at its 45th Plenary Meeting
(Venice, 15-16 December 2000)**

At its 45th plenary meeting, the Venice Commission approved the programme for co-operation with the Armenian authorities submitted to it by Messrs Gaguik Haroutyunian, President of the Constitutional Court, and Tigran Torossian, Vice-President of the National Assembly of the Republic of Armenia.

The programme primarily focuses on the areas pinpointed in the Committee of Ministers decision (CM(2000)170), i.e. electoral law, reform of the judicial system and media law. However, at the Armenian authorities' request, it also extends to revision of the Constitution, a large-scale operation which began in April 2000.

Electoral law

At its 45th plenary meeting, the Venice Commission discussed several aspects of the Electoral Code and decided to send the Armenian authorities its comments. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the OSCE Mission in Armenia will be organising a round table in Erevan on 2-3 February 2001, and the Venice Commission will participate; the aim is to discuss the issues in more depth with Armenian politicians and lawyers, and to enable the committee responsible for drafting the amendments to secure an overall view of the changes proposed and their aims. The amendments will cover, among other things, the membership of electoral commissions, the updating of electoral lists, voting by conscripts and voting by refugees. It should be noted that the National Assembly has already adopted, on a first reading, an amendment increasing the number of Assembly seats filled on a proportional basis from 56 to 94.

Media law

The Radio and Television Act was recently adopted, ignoring a number of criticisms which the Council of Europe experts (DGDH) had levelled at the Bill. However, the President of the Republic applied to the Constitutional Court for a ruling on the Act's constitutionality, and, in a judgment given on 11 January 2001, the Court declared several provisions unconstitutional. At a round table organised in Erevan on 11-12 January 2001 by the OSCE Mission in Armenia and the Council of Europe, concern was expressed at the fact that this judgment had interpreted the Constitution in a way which gave the executive power exclusive control of the media, without giving parliament any power of supervision. However, the judgment will certainly make it easier to start reviewing the Act, and will allow the National Assembly to reconsider its content. The Venice Commission will also look at the President's constitutional powers concerning the media in connection with its work on revision of the Constitution.

Another general media act is also being prepared, and the Parliament has asked the Council of Europe to help with this. The text will be submitted to it shortly for comment.

Revision of the Constitution and reform of the judicial system

Revision is primarily concerned with the separation of powers and, in this connection, with defining some of the President's powers more clearly, but other parts of the Constitution are included too. This necessarily means that many of the laws already passed or awaiting adoption will be affected, and the line followed in revising the Constitution will have to be borne in mind when new laws are being drafted.

The plan is to finalise the draft revised version of the Constitution towards the end of February 2001, and submit it at the Venice Commission's plenary meeting (9-10 March 2001). With this end in view, the Venice Commission's rapporteurs and the Armenian working party responsible for preparing the draft will be meeting in Paris on 13-14 February 2001. The next stage will be public discussion in Armenia, before the new Constitution goes to referendum, probably in June 2001.

Alongside revision of the Constitution, the Venice Commission's co-operation programme covers:

Reform of the judicial system: This essentially depends on the lines followed in revising the Constitution. The Armenian authorities intend to submit draft legislation on organisation of the judicial system, and on the Constitutional Court, the Judicial Service Commission and possibly the administrative courts, for comment in 2001. Obviously, the Venice Commission will work with the relevant departments of the Directorate General of Legal Affairs on these questions.

The Ombudsman Bill: The Commission has urged the Armenian authorities not to adopt this bill, which has already been reviewed by the Council of Europe (Directorate General of Human Rights) and OSCE experts, until appointment of the Ombudsman has been regulated in the Constitution. In fact, this question is the main focus of the concern expressed by the Council of Europe and OSCE experts.

Other points in the co-operation programme

The programme for co-operation between the Armenian authorities and the Venice Commission also covers:

- the political parties bill
- the local self-government bill
- the civil service bill.

The Venice Commission will work with the departments in the Directorate General of Legal Affairs which are already involved in drafting these bills.

* * *

A table giving the schedule for the co-operation programme, as submitted to the Venice Commission by the Armenian authorities, is appended to this document.

**TIMETABLE OF THE IMPLEMENTATION OF THE
COMMITMENTS FOR THE IMPROVEMENT OF THE LEGISLATION OF THE
REPUBLIC OF ARMENIA ON THE OCCASION OF THE ACCESSION TO THE
COUNCIL OF EUROPE**

	Deadline for the passage after the accession to CE	Drafting	Sending to the Venice Commission	Expertise outcome	Specification of the draft	Passage by the National Assembly
1.Law on Civil Service	1 year	Available	15.12	*	15.02	01.04
2.Electoral Code	till next elections	01.03	20.03	15.04	01.05	01.11
3.Law on Political Parties	1 year	15.02	15.03	05.04	01.06	01.11
4.Law on the Ombudsman	6 months	Available	15.12	**	01.03	01.05
5.Law on the Media	1 year	31.03	20.04	15.05	15.06	15.10
6.Second (specific) part of the Criminal Code	1 year	31.03	15.04	05.05	15.05	01.06
7.Law on Local Self-Governance	Till next elections	15.02	15.03	15.04	01.05	01.11

* The draft law was developed by the Ministry of Justice of RA. The comments of three international experts were published in the Report ADACS DAJ EXP (2000) 26, Strasbourg, 6 October 2000: Comments on the Draft Civil Service Law of the Republic of Armenia by Prof. Taisia Cebisova Faculty of Law, Charles University (Czech Republic); Prof. Spyridon Flogaitis, Director, European Public Law Centre (Greece); Dr. Helmut Kitshenberg, Former President of the Federal Academy of Public Administration (Germany).

** The draft law was developed by the Ministry of Justice of RA in 1999. Two comments were received from international organizations:

1. Division of the Rule of Law Unit of the OSCE/ODIHR supported by Dr. Andrzej Malanowski, an Ombudsman expert from the Polish Ombudsman Institution.
2. Report on the legal expertise of the draft law of the Republic of Armenia on the Ombudsman prepared by Jernej Rovsek, deputy Ombudsman of the Republic of Slovenia, (H(2000)10, Strasbourg, 22 August 2000, which was submitted in the seminar on the draft law of RA on the Ombudsman held in Yerevan on 10-11 November 2000, organized by the Armenian Ministry of Justice in co-operation with the Directorate General of the Council of Europe of Human Rights and the OSCE/ODIHR.