



Strasbourg, 26 September 2013

**CDL(2013)050**

Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**MEETING**  
**ON THE VENICE COMMISSION'S**  
**RULES OF PROCEDURE**  
**AND WORKING METHODS**

**Monday 29 April 2013**

**MINUTES**  
**AND PROPOSALS**  
**FOR THE SUB-COMMISSION ON WORKING METHODS**

## I. Introduction

1. On 18 December 2013, at the initiative of the Chairman of the Sub-Commission on Working methods, Mr J. S. Sorensen, all Venice Commission members and substitute members were invited to provide their ideas, suggestions and issues in order to contribute to the development and improvement of the Commission's working methods, including amendments to the Rules of procedure.

2. Contributions were received mainly from three members. A meeting was organised between these members, the President, the First Vice-President and the Chairman of the Sub-Commission on working methods, the Secretary and the Deputy Secretary, with a view to making proposals to the competent Sub-commission and then to the Plenary.

## II. Proposals

3. It was decided to make the following proposals to the Sub-commission on working methods:

- Information posted on the Website (Commission's basic documents, members' contacts, opinion requests)

4. The Commission's basic documents (statute, rules of procedure, guidelines on working methods, Guide to the Commission's activities and working methods) will be made easily visible and accessible on the members' restricted website.

5. Members' e-mail addresses will also be made accessible (for those members who so wish) on the members' restricted website.

6. The current practice of posting promptly opinion requests on the Commission's website will continue.

- Badges and names of speakers

7. At the session, members and guests will be asked to wear badges with their names and country (a model is to be prepared by the Secretariat).

8. Speakers will be introduced by the meeting's chair.

- Wi-Fi at the Scuola Grande of S. Giovanni Evangelista

9. The Wi-Fi access at the Scuola has improved; each member now has an individual access code.

10. During the Plenary, documents amended in Venice will be made available electronically in addition to being distributed in paper.

- Mandate of substitutes

11. The length of mandate of substitute members is currently not specified in the Statute, only in the Rules of Procedure. When the Statute is amended, it would be appropriate to add a provision on this. However, at this stage it is only envisaged to amend the Rules of Procedure and the Working methods.

- Powers of the President to direct the work of the Commission between sessions.

12. Under Article 4 § 2 of the Revised Statute, the President “shall preside over the work of the Commission and shall represent it”. Similarly, Article 6 § 2 of the Revised Rules of Procedure provides that “The President shall direct the work of the Commission”.

13. It seems appropriate to add a provision in Article 6 paragraph 2 of the Revised Rules of Procedure to read that:

“The President shall direct the work of the Commission. *Outside Plenary sessions, he or she shall take decisions on behalf of the Commission, where appropriate in consultation with the Bureau*”.

- Procedure of appointment of members

14. Article 1 of the Rules of Procedure provides that “no later than 6 weeks before the expiry of the term of office” the Secretary of the Commission invite the State to proceed with the appointments for the next term. 6 weeks might indeed be too short a deadline. In practice, however, the Secretariat and the States concerned are in contact with sufficient advance and, at any rate, members and substitutes continue to exercise their functions until the appointment of new ones.

- Agenda

15. The roles of the Secretariat, of the Bureau and of the rapporteurs in the preparation of the agenda are a complex issue which necessitates further reflection. A further specific meeting will be organised.

- Appointment of rapporteurs

16. Opinion requests are promptly posted on the Commission’s website and are also listed in the Members’ Updates. Members and substitute members are welcome to express their interest in the preparation of a specific opinion by informing the Secretariat. It seems appropriate however that the formal decision on rapporteurs’ appointment be taken by the President.

17. Article 14 of the Revised Rules of Procedure will thus need to be changed to read:

“Draft reports and draft opinions of the Commission are as a general rule prepared by one or more rapporteurs appointed *by the President*.”

18. In addition to Article 14 of the Revised Rules of Procedure, the Guidelines to the Commission’s WM p. 4 will also need to be changed. The Guide will explain more clearly in what manner members may make their interest in a specific opinion known to the Secretariat.

- Time pressure and preparation of opinions

19. As the requests for opinions tend to be increasingly urgent, the Commission might decide to make use of its prerogative to turn down requests (notably when they come from the Parliamentary Assembly).

20. In order to maintain the high quality of the opinions, when there is a strong time pressure, the rapporteurs and the President might decide that instead of preparing an opinion on a text as a whole, the analysis will be limited to the most controversial and urgent issues. This does not require an amendment or a specific provision in the rules of procedure.

- Preparation of opinions: working meetings among rapporteurs

21. Whenever possible, issues should be divided up among rapporteurs (this is already done for opinions on constitutions).

22. The Secretariat will encourage, where possible, video or audio conferences amongst rapporteurs instead of working meetings.

23. National members will be encouraged to provide their views on the accuracy of the information on the facts or the national legal system presented in the opinions.

- Preparation of reports and studies

24. In order to be able to concentrate on opinions and more urgent issues and to maintain the high quality of the Commission's work, reports and studies should be carried out in a limited number of cases and only after approval of the topic by the Scientific Council (with the exception of electoral matters, which are decided by the Council for Democratic Elections).

If necessary, the Commission may have recourse to outside assistance for preparing reports and studies.

- Publication of individual comments

25. Individual comments will not be made public anymore; this means that they will neither be made into CDL documents nor posted on the Commission's website.

26. Individual comments will be made available only to Commission members and substitute members and in an informal manner. The Secretariat will make a proposal on how these comments will be distributed.

- Plenary Sessions

27. Members will be again invited to provide, insofar as possible, their comments of substance on draft opinions to the rapporteurs and the Secretariat one week before the Plenary (this is already encouraged under the 2010 Guidelines on Working Methods, page 3).

28. At the Plenary, speakers should be consistently invited to respect imparted time-limits for their interventions (see the 2010 Guidelines on Working Methods). A written note on the rules for taking the floor will be prepared by the Secretariat and distributed to all members and subsequently given to each guest in Venice.

- Follow-up to opinions

29. This is a very broad and complex issue which necessitates a thorough reflection and sufficient time to be discussed. A further specific meeting will be organised.

- Scientific Council

30. The Scientific Council does not have a basis in the rules of procedure yet. It is proposed to add a provision on its composition and competences based on point C. of the Guidelines relating to the Working Methods of the Venice Commission (CDL-AD(2010)034).

*Article 20 - Scientific Council*

*“The Scientific Council shall contribute to the high quality and the consistency of the Commission’s studies and opinions.*

*The Commission shall decide every two years upon the composition of the Scientific Council, which will be chaired by the First Vice-President.*

*The Chair of the Scientific Council or a person designated by him or her shall report at the subsequent Plenary Session on its activities.”*

**III. Next meeting of the Sub-Commission on Working methods**

31. The meeting of the Sub-Commission on working methods will be convened on 10 October 2013, at the eve of the Plenary Session, in Venice.

**Participants:**

- Mr Gianni Buquicchio, President of the Commission
- Mr Jan Helgesen, First Vice-President
- Mr Jorgen Steen Sorensen, President of the Sub-commission on Working Methods
- Mr Richard Clayton
- Mr Christoph Grabenwarter
- Mr Wolfgang Hoffmann-Riem
  
- Mr Thomas Markert, Secretary of the Commission
- Ms Simona Granata-Menghini, Deputy Secretary of the Commission