



Strasbourg 9 November/novembre 2015

CDL-PL-PV(2015)003
Or. bil

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

COMMISSION EUROPEENNE POUR LA DEMOCRATIE PAR LE DROIT
(COMMISSION DE VENISE)

104th PLENARY SESSION

**Venice, Scuola Grande di San Giovanni Evangelista
Friday, 23 October 2015 - Saturday, 24 October 2015**

104^e SESSION PLÉNIÈRE

**Venise, Scuola Grande di San Giovanni Evangelista
Vendredi 23 octobre 2015 - Samedi 24 octobre 2015**

SESSION REPORT
RAPPORT DE SESSION

TABLE OF CONTENTS/TABLE DES MATIERES

1.	Adoption of the Agenda.....	4
2.	Communication by the President.....	4
3.	Communication from the Enlarged Bureau	4
4.	Election of a Committee of Wise Persons	4
5.	Communication by the Secretariat.....	4
6.	Co-operation with the Committee of Ministers.....	4
7.	Co-operation with the Parliamentary Assembly.....	5
8.	Co-operation with the Congress of Local and Regional Authorities of the Council of Europe	5
9.	Follow-up to earlier Venice Commission opinions.....	5
	<i>Opinion on the Electoral Law of the United Kingdom (CDL-AD(2007)046).....</i>	<i>5</i>
	<i>Opinion on the draft Amendments to the Media Law of Montenegro (CDL-AD(2015)004)</i>	<i>6</i>
	<i>Joint Opinion on the draft law "on introduction of changes and amendments to the Constitution" of the Kyrgyz Republic (CDL-AD(2015)014)</i>	<i>6</i>
	<i>Amicus curiae brief for the Constitutional Court of Georgia on the non ultra petita rule in criminal cases (CDL-AD(2015)016).....</i>	<i>6</i>
10.	Armenia.....	6
	<i>Draft constitutional amendments</i>	<i>6</i>
	<i>Joint Opinion by the Venice Commission and the Directorate of Human Rights (DGI), on the draft Amendments to the Law on the Human Rights Defender of Armenia.....</i>	<i>8</i>
11.	Bulgaria	8
12.	Ukraine	9
	<i>Constitutional amendments relating to the Judiciary.....</i>	<i>9</i>
	<i>Constitutional amendments relating to decentralisation and temporal validity of transitional provision 18</i>	<i>10</i>
	<i>Secretariat Memorandum on the compatibility of the draft constitutional Amendments on decentralisation adopted by the Verkhovna Rada in the first reading with the Preliminary Opinion.....</i>	<i>11</i>
	<i>Draft amendments to some legislative acts concerning prevention of and fight against political corruption</i>	<i>12</i>
	<i>Draft law on Integrity checking.....</i>	<i>12</i>
13.	Co-operation with International IDEA	13
14.	Bosnia and Herzegovina.....	13
15.	Georgia.....	14
16.	Kyrgyzstan.....	14
17.	Montenegro	15
18.	Tunisie.....	16
19.	Albania.....	17
20.	Draft joint Guidelines on preventing and tackling the misuse of administrative resources during electoral processes.....	18
21.	Report on exclusion of offenders from parliament.....	18

22.	Conference on “Past and present day lustration: similarities, differences, applicable standards” (Prague, 7 September 2015).....	18
23.	Co-operation with the Organisation of Arabic speaking Electoral Management Bodies	19
24.	UniDem-Med Campus	19
25.	Information on constitutional developments in other countries	20
26.	Report of the meeting of the Council for Democratic Elections (22 October 2015).....	20
27.	Report of the joint meeting of the Sub-Commissions on Democratic Institutions and on Fundamental Rights (22 October 2015).....	20
28.	Dates of the next sessions.....	21

1. Adoption of the Agenda

The agenda was adopted as it appears in document CDL-PL-OJ(2015)003ann.

2. Communication by the President

The Commission observed a minute's silence in memory of Mr Hubert Haenel, member of the Venice Commission in respect of France.

Mr Buquicchio welcomed all the members, special guests and delegations attending the Plenary Session of the Venice Commission as well as newly appointed members. Mr Buquicchio also informed the Commission about his recent activities, which are listed in document [CDL\(2015\)042](#).

He further congratulated Tunisia on the awarding of the Nobel Peace Prize to the National Dialogue Quartet.

3. Communication from the Enlarged Bureau

The Commission was informed that the Enlarged Bureau proposed not to provide an opinion on the alternative draft constitutional amendments on the judiciary proposed by the Reanimation reform package of Ukraine.

The Commission agreed with the proposal from the Enlarged Bureau not to provide an opinion on the alternative draft constitutional amendments on the judiciary proposed by the Reanimation reform package of Ukraine.

4. Election of a Committee of Wise Persons

The Commission was informed that with regard to the procedure for the election of the President, the Vice-Presidents, the members of the Bureau and the Chairs of the Sub-Commissions, the Enlarged Bureau proposed that the Committee of Wise Persons to prepare the elections and advise on the candidates be composed of the following three persons: Messrs Bartole, González Oropeza and Scholsem.

The Commission agreed with the proposal of the Enlarged Bureau that the Committee of Wise Persons be composed of Messrs Bartole, González Oropeza and Scholsem.

5. Communication by the Secretariat

Mr Markert informed the participants about organisational arrangements for the upcoming Plenary Session.

6. Co-operation with the Committee of Ministers

Ambassador Arnold de Fine Skibsted, Permanent Representative of Denmark to the Council of Europe, praised the Venice Commission's achievements in accompanying constitutional reforms. He particularly emphasised the added value brought by the Venice Commission to the process of constitutional reform in Ukraine.

Ambassador Ardiana Hobdari, Permanent Representative of Albania to the Council of Europe, emphasised the Venice Commission's importance in reforming the Judiciary of

Albania. Her country needed the Venice Commission's continued assistance to ensure professionalism, efficiency and transparency within the justice system in Albania.

L'Ambassadeur Markus Börlin, Représentant permanent de la Suisse auprès du Conseil de l'Europe, relève que les développements politiques actuels en Europe sont dans une phase cruciale et que le soutien continu de la Commission de Venise aux Etats membres est à cet égard décisif. La Commission peut compter sur le soutien de la Suisse.

7. Co-operation with the Parliamentary Assembly

M. Jean-Claude Mignon, ancien président de l'Assemblée parlementaire du Conseil de l'Europe, informe la Commission que l'Assemblée parlementaire a récemment tenu des débats sur la situation des migrants en Europe, la crise économique et le développement des partis nationalistes en Europe. M. Mignon souligne l'importance du prix des Droits de l'Homme Václav Havel remis cette année à Mme Ludmilla Alexeeva. Il souligne également l'excellent travail réalisé par la Commission de Venise dans le domaine des élections, clef de voûte de toute démocratie.

Mr Arcadio Diaz Tejera, Member of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, underlined the importance of the Venice Commission's opinions issued in the context of on-going reforms in Ukraine. He informed the Commission that he would follow closely such reforms and the Venice Commission's opinions in this respect.

8. Co-operation with the Congress of Local and Regional Authorities of the Council of Europe

M. Philippe Receveur, président de la Commission de Suivi du Congrès, souligne l'excellent environnement de travail avec la Commission de Venise. Il informe la Commission de l'agenda du Congrès, en particulier les rapports d'observation d'élections locales, plus spécialement concernant celles qui se sont tenues en Ukraine le 25 octobre 2015. Il mentionne également la conférence de Varsovie qui a marqué le 30^e anniversaire de la Charte européenne de l'autonomie locale, qui s'est tenue le 18 septembre 2015. Enfin, M. Receveur informe la Commission de futurs rapports de la Commission de Suivi sur la démocratie locale et régionale concernant l'Arménie, la Géorgie et la République de Moldova.

9. Follow-up to earlier Venice Commission opinions

Opinion on the Electoral Law of the United Kingdom (CDL-AD(2007)046)

Further to a request from the Monitoring Committee of the Parliamentary Assembly, the Venice Commission adopted in December 2007 an Opinion on the Electoral Law of the United Kingdom. This opinion focused on three issues: the voters' registration system; postal voting and the differences in legislation between Great Britain and Northern Ireland, which the Venice Commission considered as justified and fair, given the special circumstances, and which mainly referred to registration of voters and postal voting.

The United Kingdom Parliament adopted the Electoral Registration and Administration Act in 2013. This Act introduced individual electoral registration in Great Britain, instead of the traditional household registration. It addressed the first issue raised in the 2007 opinion (the voters' registration system) and reduced the difference between the legislation applicable to Northern Ireland and the legislation applicable to Great Britain. It is aimed at implementing the Government's commitment to reducing electoral fraud by speeding up the implementation of individual voter registration. It was applied to the 2015 general election.

Opinion on the draft Amendments to the Media Law of Montenegro
([CDL-AD\(2015\)004](#))

In December 2014, the Speaker of the parliament of Montenegro requested an urgent opinion of the Venice Commission on proposed amendments to the Media Law of Montenegro, introducing the possibility of imposing a temporary ban on a publication or on the functioning of a media outlet. Such a ban would be a response to the failure to implement judicial decisions. In March 2015 the Venice Commission adopted an opinion, whereby it recommended removing the general possibility of imposing a temporary ban, and to limit this possibility to extreme cases such as incitement to hatred or threat of violent overthrow of the constitutional order. The draft amendments were subsequently revised by the Montenegrin authorities in the light of the Venice Commission's recommendations. However, the political momentum for debating them in parliament seems to have passed, so that they have not been put on the parliament's agenda for the time being.

Joint Opinion on the draft law "on introduction of changes and amendments to the Constitution" of the Kyrgyz Republic ([CDL-AD\(2015\)014](#))

The Joint Opinion with the OSCE/ODIHR, adopted at the June session, had strongly criticised the draft constitutional amendments, which removed the constitutional provisions on the jurisdiction of the Constitutional Chamber and would have transformed it from a 'court' to an 'other state body' and turned it into an advisory body. A very positive result of the Joint Opinion was that the President of the Republic called upon Parliament to withdraw these amendments. This request was followed but, following recent parliamentary elections, there is a risk that similar amendments will be re-introduced. A new request for a joint opinion might ensue in this case.

Ms Aidarbekova, Judge-Secretary of the Constitutional Chamber, thanked the Commission for its support which had been very helpful for the Chamber. She expressed the hope that the Commission would continue to help the Chamber if need be.

Amicus curiae brief for the Constitutional Court of Georgia on the non ultra petita rule in criminal cases ([CDL-AD\(2015\)016](#))

Mr Papuashvili informed the Commission about the judgement of the Constitutional Court of Georgia for which the Court had requested an *amicus curiae* brief, adopted at the June 2015 session. The issue before the Court was whether a strict application of the *non ultra petita* principle and the adversarial principle prevented courts of appeal from taking into account other constitutional principles in criminal cases, although no argument in this sense was made on behalf of the accused. Based on the *amicus curiae* brief, the Constitutional Court held that the adversarial principle and the principle of *non-ultra petita* do not prevent a court from taking up *sua sponte* the principles of the prevention of double jeopardy, *in dubio pro reo*, *nullum crimen sine lege* and *lex mitior*.

10. Armenia

Draft constitutional amendments

Ms Khabrieva reminded the Commission that, following the authorisation by the Plenary in June, a first preliminary opinion on chapters 1 to 7 and 10 of the Constitution had been sent to the Armenian authorities and made public on 30 July 2015; a second preliminary opinion, in particular on chapters 8, 9 and 11 to 16, had been sent to the Armenian authorities and made public on 11 September 2015. The draft amendments, having already been adopted by the Armenian parliament, the two preliminary opinions were submitted to the Plenary for

endorsement. On 5 October, the National Assembly had adopted the draft amendments, with several changes which the Venice Commission had not examined. This text would be submitted to referendum on 6 December 2015: it was of crucial importance that the referendum meet the international standards and provide a real opportunity for the Armenian people to express their opinion on the constitutional reform. Ms Khabrieva congratulated the high quality of the amendments to the first three chapters of the Constitution, despite excessive detail at times. She stressed in particular that some improvements concerning electoral rights had been made upon recommendation of the rapporteurs.

Mr Tanchev welcomed in particular that the details of the electoral system had been left to the electoral code; a second round had been made optional and post-electoral coalitions had been made possible if a second round took place. He stressed that in the new parliamentary regime the President's powers had been reduced to an almost only ceremonial level, although in the last reading they had apparently been increased, which was to be welcomed. The parliamentary system had been rationalised through provision of a constructive vote of no-confidence. However, the majority for the vote on no-confidence and the vote of confidence were the same, which in the opinion of the rapporteurs was not appropriate.

Mr Bartole considered that the draft amendments deserved a very positive appreciation. He welcomed in particular the requirement for a three-fifths majority for the election of the judges of the Court of Cassation and of the Constitutional Court and the competence of a non-politicised Supreme Judicial Council for the dismissal of the judges. Some clarifications had been offered in reply to some of the rapporteurs' remarks (for example on the possibility of reappointment terms of office of the Prosecutor General and the President of the Court of Cassation). A doubt persisted on the possibility for the Municipal Council to dismiss the Mayor.

Mr Endzins praised the fact that a specific chapter was now devoted to the Human Rights Defender, and that solid guarantees for its independence were provided, notably a longer term than the parliament's. Constitutional guarantees of independence were provided also for the other constitutional institutions, such as the Central Electoral Commission. The non-political nature of the members of these bodies was to be welcomed. Finally, Mr Endzins stressed that a referendum was now required for fewer constitutional amendments, thus making the constitution more flexible, which was to be welcomed.

Mr Galust Sahakyan, Speaker of the National Assembly of Armenia, expressed his gratitude and satisfaction with the co-operation with the Venice Commission, which stood at the roots of democratic reforms in Armenia. Constitutional reforms had started in 1995 with a power-centred, not person-centred constitution and had thereafter gradually evolved towards a human rights-centred constitution which was now being discussed. He subsequently presented the most important aspects of the amendments; in his view, most gaps and uncertainties had been clarified, notably thanks to the co-operation with the Venice Commission, and the amendments were now mature to be submitted to referendum. He expressed his conviction that, if adopted, they would bring about the rule of law in Armenia. He finally expressed his wish to rely on the Venice Commission's assistance for the implementation of the constitutional amendments.

Mr Buquicchio welcomed the fruitful co-operation with the Armenian constitutional commission. He stressed the importance of giving the Armenian people the genuine possibility to choose whether or not to adopt these constitutional amendments. If the people chose to adopt them, the Venice Commission stood ready to assist in their implementation.

The Commission endorsed the Preliminary Opinion on the draft Amendments to the Constitution (Chapters 1 to 7 and 10) of the Republic of Armenia ([CDL-AD\(2015\)037](#)) and the Second Preliminary Opinion on the draft Amendments to the Constitution (in particular to Chapters 8, 9 and 11 to 16) of the Republic of Armenia ([CDL-AD\(2015\)038](#)).

Joint Opinion by the Venice Commission and the Directorate of Human Rights (DGI), on the draft Amendments to the Law on the Human Rights Defender of Armenia

Ms Lydie Err reminded the Commission that this opinion had been requested by Mr Karen Andreasyan, the Human Rights Defender of the Republic of Armenia.

The opinion welcomed the extension of the Defenders' powers within his mandate as the National Preventive Mechanism under the OPCAT; it was, however, recommended to clarify further the relations between the Defender and the judicial powers, the procedure for electing the Defender and the respective mandates of the Preventive Council and Expert Council assisting the Defender in his/her work. Following discussion it was decided to make certain changes to the text.

The Commission adopted the Opinion on the Draft Amendments to the Law on the Human Rights Defender of Armenia ([CDL-AD\(2015\)035](#)).

11. Bulgaria

M. Neppi Modona explained that the proposed constitutional amendments covered several issues: structural and organisational changes of the Supreme Judicial Council (SJC) involving the division of the SJC into two Chambers (one for judges and one for prosecutors and investigators), with separate and independent career and disciplinary functions, and the diminution of the functions of the Minister of Justice with respect to the SJC; the strengthening of the Inspectorate with the SJC through new functions, aimed at ensuring the accountability and the integrity of the judiciary; introducing access of the Supreme Bar Council to the Constitutional Court as a way of providing increased safeguards for citizens' rights and freedoms.

These amendments, in particular the division of the SJC into two separate Chambers, were a significant step forward in the constitutional reform of the Bulgarian judiciary, which enjoyed the support of a significant part of the Bulgarian political class. Some of them reflected previous recommendations by the Venice Commission.

Certain recommendations were nonetheless formulated: to introduce a qualified majority requirement and anti-deadlock mechanisms for the election of SJC lay members, to reconsider the division of competencies between the SJC Plenum and the two Chambers in the light of the principle of independence of the different professions of the judiciary from each other, to reconsider the role of the Minister of Justice in relation to the SJC, and to provide wider access to the Constitutional Court (by judges at all levels and by enabling direct individual complaints).

The Commission subsequently held an exchange of views with Mr Hristo Ivanov, Minister of Justice and Mr Dimitar Lazarov, Chairperson of the Ad Hoc Committee for the amendment of the Constitution of Bulgaria. They stressed that the reform aimed at introducing the necessary guarantees for the independence and efficiency of the judiciary, which had been the object of heated debates over the past years, and at providing for a democratically accountable prosecution system. Mr Ivanov expressed the hope that the opinion would not

only help to develop the “conceptual framework” of the reform, but also contribute to the political will which is necessary for its adoption and implementation.

The Commission adopted the Opinion on the Draft Act to Amend and Supplement the Constitution of the Republic of Bulgaria ([CDL-AD\(2015\)022](#)).

12. Ukraine

Constitutional amendments relating to the Judiciary

The President of the Commission informed the plenary about the request from the Ukrainian authorities of Ukraine to provide an opinion on the proposed constitutional amendments regarding the judiciary of Ukraine. The rapporteurs had done an excellent job in preparing a draft preliminary opinion in a very short time. This very fruitful co-operation enabled the Ukrainian authorities, to introduce a number of changes to the initial text on the basis of a preliminary opinion and to re-submit a revised version to the Commission. The open and constructive discussion of the text of the draft final opinion also enabled a compromise to be found between different national stakeholders involved in the constitutional process thus opening an additional window of opportunity for the smooth and speedy adoption of this essential constitutional revision. Mr Buquicchio congratulated the rapporteurs and the authorities for this exemplary co-operation which resulted in a final opinion proposed for adoption at the plenary session.

Ms Suchocka presented both the preliminary and the draft final opinions on constitutional amendments regarding the judiciary of Ukraine. She referred to the long-standing co-operation between the Venice Commission and Ukraine in the field of the judiciary and expressed the importance for these long overdue reforms to be finally achieved on the basis of this text. The new round of co-operation had presented a unique opportunity to integrate into the constitutional framework also the previous recommendations of the Commission. Ms Suchocka also underlined the essential role of a very constructive dialogue engaged between the Commission’s rapporteurs and the Ukrainian authorities. The interim opinion prepared in Summer 2015 had made a number of recommendations to the drafters of the initial text. Most of these proposals had been included in the draft analysed in the final opinion. Among other positive changes was the abolition of the breach of oath as a ground for the dismissal of judges, the reform of the prosecution and the participation of the Rada in the composition of the High Council for the Judiciary. A transitional provision introduced the possibility of carrying out an assessment procedure of all the ordinary judges. In the Venice Commission’s opinion, this was an extraordinary procedure requiring the utmost care, and it was important to make sure that there would not be several parallel assessment procedures carried out by different organs. A procedure of assessment of the professionalism, ethics and honesty of the judges deserved to be supported as opposed to the mass dismissal of all the judges. Mass dismissal, outside very exceptional circumstances such as constitutional breakdown, was against European standards and the Rule of Law. In cases of reorganisation of courts, notably in relation to the suppression of the specialised high courts which was strongly recommended by the Venice Commission, judges needed to be given the possibility to retire or apply for new positions.

Mr Oleksiy Filatov, Deputy Head of the Presidential Administration and Secretary of the Constitutional Commission, thanked the rapporteurs for their opinion and for the excellent co-operation with the authorities in the process of its preparation. He informed the plenary that the revised text included more than 50 proposals and recommendations of the Venice Commission. Among other issues, provisions on guarantees for the independence of the judiciary, the High Council of Justice, functional immunity for judges, independence of the Bar and introduction of the individual constitutional complaint had been substantially revised on the basis of the

Commission's recommendations. The next important step for the constitutional reform would be the adoption of these amendments by the Verkhovna Rada. Mr Filatov expressed his hope that co-operation between the Ukrainian authorities and the Venice Commission on constitutional amendments on other chapters of the Constitution would continue in the same constructive and open spirit.

Ms Oksana Syroyid, Deputy Speaker of the Verkhovna Rada thanked the Commission for the excellent co-operation on the proposed constitutional amendments regarding the judiciary in Ukraine. She praised the inclusiveness of the process of drafting these amendments. In her opinion there were three main tasks in the field of the reform of the judiciary in Ukraine: elimination of political influence on judges, introduction of the three level system and fight against corruption in the judiciary. The proposed draft set a good basis for substantial reforms in these areas.

Mr Pavlo Petrenko, Minister of Justice of Ukraine joined the previous speakers in praising co-operation with the Venice Commission on issues related to reform of the judiciary and expressed his hope that the opinion of the Commission would help to secure the 300 votes in the Rada necessary for the adoption of the text of constitutional amendments in the field of the judiciary.

Mr Serhiy Holovaty reminded the participants that some of the recommendations of the Venice Commission in the field of the judiciary had been formulated in the opinion on the Constitution of Ukraine of 1996. The latest set of amendments was taking on board these recommendations and opening the way for making the rule of law "effective" in Ukraine.

Mr Esa Paasivirta, Legal Advisor, European Commission, informed the plenary that the EU encouraged the Commission to continue its support to the constitutional reform in Ukraine and underlined the importance of asset verification procedures for judges.

The Commission endorsed the Preliminary Opinion on the amendments to the Constitution of Ukraine regarding the judiciary as proposed by the working group of the Constitutional Commission in July 2015 ([CDL-AD\(2015\)026](#)) and adopted the Opinion on the proposed amendments to the Constitution of Ukraine regarding the judiciary as approved by the Constitutional Commission on 4 September 2015 ([CDL-AD\(2015\)027](#)).

Constitutional amendments relating to decentralisation and temporal validity of transitional provision 18

The President of the Commission informed the plenary that the Ukrainian authorities had sent a request to provide an opinion on the proposed constitutional amendments regarding the Territorial Structure and Local Administration of Ukraine in June 2015. Based on the decision taken at the Commission's 103rd plenary session, the opinion had been transmitted to the authorities as a preliminary opinion and made public in June. The text of the amendments revised on the basis of the recommendations of the Venice Commission had subsequently been validated by the Constitutional Court.

Ms Suchocka presented the opinion underlining that the proposed amendments in their final version incorporated most of the recommendations made by the Venice Commission between June and August 2015. The text reinforced local authorities based on the provisions of the European Charter of local self-government, adopted a provision on the powers of the President to dismiss prefects only upon proposals from the Cabinet of Ministers and improved the system of suspension of decisions of local authorities that could be contrary to the Constitution of Ukraine and national legislation.

Mr Luc van den Brande, Member of the Committee of the Regions, President of CIVEX, referred to three main issues to be taken into account in the framework of the decentralisation reform: the authorities should think about the possibility of electing prefects (and not appointing them), they should invest into capacity-building for members of local authorities and they should promote measures to increase local responsibility for decisions and actions taken.

Turning to the opinion on the temporal validity of transitional provision 18 on the special arrangements for certain territorial units in Ukraine, Ms Suchocka stressed that the wording of this provision did not contain any indication that it had a temporary character. She also explained that the practical value of transitional provision 18 would largely depend on the will of the Ukrainian authorities to conduct reforms. However, there was no doubt that once this provision was adopted, it would have the same validity as the rest of the constitution.

Mr Lafitsky congratulated the rapporteurs and the secretariat on the quality of the texts produced. However, he pointed out a number of provisions that could, in his opinion, be problematic in the light of international standards. In case of suspension of decisions of local authorities by the President, the role of the judiciary ought to have been underlined. The text of the transitional provisions mentioned some parts of Donetsk and Luhansk oblasts with a special status without making direct reference to the oblasts as such, as required by the Minsk II agreement.

Mr Serhiy Holovaty, Adviser to the Chairman of the Verkhovna Rada of Ukraine for constitutional reforms, expressed his support for the analysis of the amendments made by the rapporteurs, including the opinion on transitional provision 18 and insisted that the draft opinions should be endorsed in order to support the constitutional reform process.

The Commission endorsed the Opinion on the amendments to the Constitution of Ukraine regarding the Territorial Structure and Local Administration as proposed by the Working Group of the Constitutional Commission in June 2015 ([CDL-AD\(2015\)028](#)). In addition, the Commission adopted the Opinion on the temporal validity of draft transitional provision 18 of the Constitution of Ukraine ([CDL-AD\(2015\)030](#)).

Secretariat Memorandum on the compatibility of the draft constitutional Amendments on decentralisation adopted by the Verkhovna Rada in the first reading with the Preliminary Opinion

Ms Granata-Menghini referred in particular to the main recommendations formulated in the Preliminary Opinion on the draft constitutional Amendments regarding the Territorial Structure and Local Administration of Ukraine (decentralisation). With respect to the power to dismiss the prefects, which ought not to be given to the President alone, she noted that the text maintained the current manner of dismissal by the President upon recommendation of the Cabinet of Ministers. The Venice Commission's first key recommendation had thus been followed.

As concerned the possibility in Article 133 for the law to create some categories of administrative/territorial units or special arrangements for or within administrative territorial units, Ms Granata-Menghini noted that it had not been followed as such. However, a transitional provision had been proposed, whereby "Specific arrangements for self-government in some parts of Donetsk and Luhansk oblasts shall be set forth in a separate law". This transitional provision would provide constitutional underpinning for possible future specific arrangements foreseen in the Minsk agreements: the Venice Commission's second key recommendation had therefore also been followed in substance.

Ms Granata-Menghini further referred to the President's power to *terminate* the powers of local self-government bodies when the latter take unconstitutional measures that threaten state sovereignty, territorial integrity or national security, which in the Commission's view needed to be replaced by the power merely to *suspend* such powers. It was then recommended that the President would immediately refer the case to the Constitutional Court, which would decide the matter as a priority. In the case of confirmation of unconstitutionality, new elections would be called immediately. In case of constitutionality, the local self-government bodies would be immediately reinstated. These recommendations had equally been followed.

In conclusion, not only the key recommendations, but also most of the other recommendations had been followed. The few exceptions were only technical.

The Commission took note of the Secretariat memorandum ([CDL-AD\(2015\)029rev](#)) on the compatibility of the draft law on amending the Constitution of Ukraine as to decentralisation of power as submitted by the Verkhovna Rada to the constitutional court of Ukraine on 16 July 2015 with the opinion on the amendments to the Constitution of Ukraine regarding the territorial structure and local administration as proposed by the working group of the constitutional commission in June 2015 ([CDL-AD\(2015\)028](#)).

Draft amendments to some legislative acts concerning prevention of and fight against political corruption

Ms Alice Thomas explained that a number of issues raised in previous opinions and mission reports of the Venice Commission and the OSCE/ODIHR had been taken into account: the draft had introduced public funding of political parties; more stringent requirements on party and campaign finance reporting; internal and external audit; as well as higher sanctions for violations of financing regulations. The main recommendations of the draft opinion focused on five issues: the lack of clarity of the provisions concerning public funding; the need to re-establish expenditure limits for parliamentary elections and to extend them to presidential elections; the need to clarify the role of the various oversight bodies and to ensure their autonomy; the need to include loans, credits and debts in the overall reporting obligations and contribution limits and to ensure proportionate administrative and criminal sanctions for violations of the law. The draft opinion also suggested introducing a ban on paid broadcast advertising.

The Commission adopted the Joint Opinion by the Venice Commission, the Directorate of Human Rights (DGI) and the OSCE/ODIHR on the draft amendments to some legislative acts concerning the prevention of and fight against political corruption in Ukraine ([CDL-AD\(2015\)025](#)), previously adopted by the Council for Democratic Elections on 22 October 2015.

Draft law on Integrity checking

Ms Veronika Bilkova explained that "Integrity Check" is a specific procedure involving undercover investigation techniques and conducted "by simulation of a situation with artificial conditions where a person authorised to perform the functions of state or local government is given the possibility to break the rules of ethical behaviour or to commit a corruption or corruption-related offence". Both judges of the Constitutional Court and of ordinary courts are excluded from the scope of application of the integrity checks. Also, as integrity checks only apply to persons "who by law fall under disciplinary liability procedures", it appears that the elected bodies, such as the President of Republic and the deputies of the Verkhovna Rada are excluded from its scope of application. The results of the integrity checks may only be used in

disciplinary proceedings. Insofar as the Draft Law aims at improving the system of preventing and combatting corruption, it pursues a laudable and legitimate aim. However, the Draft Opinion recommended a number of important improvements, including: that the concepts of “rules of ethical behaviour” and “the failure to perform the duty of prevention of corruption” be defined more precisely; that the initiation of the integrity checks requires prior reasonable grounds to suspect that the targeted person, or the institution in which the targeted person works, is already involved in corruption related offences; that the discretionary powers of the person conducting the integrity check concerning the selection of persons to undergo the check and the frequency of the checks be limited; that the targeted person be provided with the possibility to appeal against the course of the check as well as against its results.

Mr. Serhii Petukhov, Deputy Minister of Justice of Ukraine explained that they had decided to consult the Venice Commission at an early stage of the preparation of the Draft Law and that they would continue to work on this Draft on the basis of the Venice Commission recommendations. As a consequence, the Commission decided, as a first step, to adopt an Interim Opinion on this preliminary version of the Draft Law.

The Commission adopted the Interim Opinion on the Draft Law on Integrity Checking of Ukraine ([CDL-AD\(2015\)031](#)), previously examined by the Sub-Commissions on Democratic Institutions and on Fundamental Rights.

13. Co-operation with International IDEA

Mr Yves Leterme, Secretary General of International IDEA, informed the Commission about the main activities of International IDEA of interest to the Commission as well as possible areas of co-operation. He indicated that International IDEA issues comparative publications, facilitates dialogues and provides assistance to countries in the field of electoral processes, constitution building, and political participation and representation.

Mr Buquicchio thanked Mr Leterme for his exhaustive and constructive intervention and welcomed possible future co-operation.

14. Bosnia and Herzegovina

Mr Scholsem reminded the Commission that it had already examined, on several previous occasions, the legislation on the Ombudsman institution of BiH, stressing that, in the specific context of the country, the existence and effective operation of a unified Ombudsman institution was of crucial importance. A re-evaluation of the status “A” granted to the BiH Ombudsman by the International Co-ordination Council of National Institutions for Human Rights (ICC) was foreseen for 2015. Thus, it was essential for BiH to address the ICC’s recent concerns over the lack of independence and neutrality of the institution and its failure to act as a genuinely unified institution. Further, pending the election of three new Ombudspersons, the term of the three Ombudspersons appointed in 2008 (from the ranks of the three constituent peoples) for a six-year term had been extended. Conciliating the two parallel processes was an additional challenge for the BiH authorities.

In substance, the draft law proposed significant improvements, in particular as regards the composition of the Institution and the appointment procedure. However, additional improvements were recommended: to consider a longer, non-renewable mandate of the Ombudsman and less restrictive eligibility criteria; to better clarify the prerogatives of the Ombudsman in relation to courts, in the light of the principle of independence of the judiciary; to provide increased guarantees for the Institution’s financial independence. Moreover, it was recommended to make sure that the most important functions and organisation

principles of the Ombudsman Institution be regulated and formulated in such a way as to enhance its unified nature (by referring systematically to “the Institution” and not “the Institution and the Ombudspersons”).

During the subsequent exchange of views, Ms Semiha Borovać, Minister for Human Rights and Refugees of Bosnia and Herzegovina and Mr Borislav Bojić, Chair of the Joint Committee on Human Rights of the BiH Parliamentary Assembly, thanked the Commission for its assistance and assured it that dialogue was being pursued at the national level and the Venice Commission’s recommendations would be duly taken into account in order to identify the best manner to take into account not only the three Constituent Peoples but also the Others.

The Commission adopted the Opinion on the Draft Law on the Ombudsman for Human Rights in Bosnia and Herzegovina ([CDL-AD\(2015\)034](#)).

15. Georgia

Mr Nicolae Esanu reminded the Commission that the Joint Opinion on the draft Amendments to the law on the Prosecutor’s Office of Georgia prepared jointly with the Consultative Council of European Prosecutors (CCPE) and the OSCE/ODIHR, had been sent to the Georgian authorities as a Preliminary opinion and publicly released in July 2015, following the authorisation by the Plenary at the June 2015 session.

The opinion welcomed the reform undertaken by the Georgian authorities in order to depoliticize the office of the Prosecutor General; this reform provided *inter alia* for the creation of a Prosecutorial Council responsible for appointing the Prosecutor General and overseeing his/her activities. However, the preliminary opinion recommended selecting lay and prosecutorial members of the Council in a more transparent manner, and electing a certain number of lay members either with a qualified majority or through a quota system.

The Georgian authorities had subsequently amended the draft which had finally been adopted and signed into law in September 2015. Most of the recommendations contained in the opinion had been followed, which was to be welcomed. The Commission nonetheless encouraged the Georgian authorities to take additional steps in order to further depoliticise the prosecution service.

The Commission endorsed the Opinion on the draft Amendments to the law on the Prosecutor’s Office of Georgia ([CDL-AD\(2015\)039](#)).

16. Kyrgyzstan

Mr Knežević presented the draft opinion on the Rules of Procedure of the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic. He explained that this draft opinion had been requested by the Constitutional Chamber in order to receive guidance on future amendments it intends to make to these Rules. The Venice Commission’s task was therefore to assess whether or not the currently applicable Rules of Procedure are in line with international standards.

Mr Knežević explained that the draft opinion recommends that these Rules be revised to avoid any potential duplication and contradiction with the *Constitutional Law on the Constitutional Chamber*. Amendments to this Law are currently pending and the Rules should be aligned with these amendments, once they are adopted.

The main concerns with these Rules include a lack of solutions on a number of issues that commonly relate to the activities of a constitutional court, for instance there are no provisions on access of journalists to the Chamber's sessions or on establishing the agenda for the sessions. In addition, the status of the chairperson of the Chamber vis-à-vis the other judges of the Chamber needed to be modified and the role of the judge rapporteur should also be revised. The Rules also lack provisions on the necessary procedural aspects that would contribute to legal certainty in their implementation. For instance, there are provisions on the submission of an act for the approval of the Chamber, but there are no procedural solutions when the approval is declined.

The Chamber was encouraged to turn to the Venice Commission once it has drafted the amended version of its Rules of Procedure.

Ms Chinara Aidarbekova, Judge-Secretary of the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic, explained some of the inconsistencies were due to the fact that the Rules of Procedure of the Constitutional Chamber had been the result of an incoherent merger of those of the former Constitutional Court and the Supreme Court. The Rules would be aligned to the Law following the adoption of the amendments to the Law, which were pending in Parliament. Civil society had also insisted that the Rules of Procedure should not have an impact on the rights of individuals. These issues had to be regulated by law.

The Commission adopted the Opinion on the Rules of Procedure of the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic ([CDL-AD\(2015\)023](#)).

17. Montenegro

Mr Aurescu introduced the draft opinion on the draft Law on Amendments to the Law on Minority Rights and Freedoms of Montenegro, prepared at the request of the Montenegrin authorities, and some amendments proposed by the rapporteurs. Mr Aurescu recalled that the Commission had already adopted, in 2004, an opinion on Montenegro's legislation on national minorities, in which it had emphasised the role of minority councils in ensuring the protection of the rights of the country's minorities.

The main purpose of the draft law was to address the shortcomings found, notably by the monitoring bodies of the Framework Convention on the Protection of National Minorities, in the operation of the mechanism for state support to the activities of national minorities.

Overall, the draft law was a substantial improvement on the existing legal framework, and the proposed system for accessing state subsidies well-conceived although complex and sometimes too sophisticated. It was recommended however to: reconsider the rules for the establishment of the minority councils so as to ensure that *ex officio* members are not involved in the election of the other members of the councils; provide for representation in the Management Board of the Minority Fund of each of the minority councils; to reconsider the eligibility criteria/incompatibilities for the Fund's Director and Management Board so as to avoid excluding potential candidates with useful experience in minority protection; to set a reasonable percentage cap on the operational expenses of the Fund; and to entrust the Management Board with the power to prescribe the modalities to evaluate projects.

Mr Suad Numanović, Minister for Human and Minority Rights of Montenegro, expressed his gratitude for the Commission's assistance. While providing additional information regarding some of the solutions proposed by the draft law, Mr Numanović stressed that the reform of the Minority Fund was aimed at preventing potential conflicts of interest, creating greater transparency in deciding about the allocation of funds and the appointment of management

bodies and their members, and that the new mechanisms proposed incorporated suggestions from a wide array of stakeholders, including state institutions, national councils, non-governmental organisations and international organisations.

The Commission adopted the Opinion on the Draft Law on amendments to the Law on Minority Rights and Freedoms of Montenegro ([CDL-AD\(2015\)033](#)).

18. Tunisie

Avis intérimaire sur le Projet de loi organique sur les aspects institutionnels du Projet de loi sur les procédures spéciales concernant la réconciliation dans les domaines économique et financier

Mme Kiener informe la Commission que l'Instance Vérité et Dignité de la Tunisie, organe chargé de la justice transitionnelle, a saisi la Commission de Venise sur le projet de loi sur la réconciliation dans les domaines économique et financier. Conformément à sa pratique lors qu'elle est saisie par des institutions étatiques indépendantes, la Commission de Venise a décidé de n'examiner du projet de loi que les aspects institutionnels, c'est-à-dire l'impact qu'il aurait sur le mandat de l'IVD.

L'article 148 de la Constitution tunisienne n'impose aucune forme, ni aucun organe particulier pour la réalisation de la justice transitionnelle, mais impose notamment à l'Etat de respecter les délais prévus par la législation sur la justice transitionnelle : ce délai expire en juin 2018. Or l'IVD, qui n'a pas été dotée de beaucoup de moyens, a reçu près de 18 000 plaintes et n'en a close aucune, à ce jour. Il semble dès lors raisonnable et même bienvenu qu'une commission spécialisée décharge l'IVD d'une partie des affaires. Toutefois, l'article 148 impose une autre obligation à l'Etat tunisien : de réaliser la justice transitionnelle « dans tous ses domaines », c'est-à-dire avec les mêmes garanties dans chacun des domaines. Le système de justice transitionnelle « à double voie » proposé par le projet de loi ne pourrait être compatible avec l'article 148 de la Constitution qu'à condition que ces deux voies soient équivalentes. Or, la procédure de réconciliation ne peut être considérée comme équivalente à celle d'arbitrage et conciliation de la justice transitionnelle, en raison : de l'absence de garanties d'indépendance de la Commission de réconciliation, de l'insuffisance des garanties d'établissement des faits et de publicité de la procédure de réconciliation, de l'absence d'impact sur le poste et la carrière du fonctionnaire ayant reconnu d'avoir participé à des actes de malversation. De plus, le projet de loi sur la réconciliation ne paraît pas suffisamment harmonisé avec la loi organique sur la justice transitionnelle.

Mme Sihem Bensedrine, Présidente de l'Instance de la Vérité et de la Dignité, remercie la Commission de Venise pour son travail rigoureux dans un délai très court, et pour avoir agi en « médiateur scientifique » dans le contexte tunisien, assez tendu. Elle souligne le travail de préparation accompli par l'IVD depuis sa création et fait valoir que le retard dans les audiences arbitrales est imputable au gouvernement qui n'a pas désigné son représentant. Elle considère que le projet de loi en question interfère avec l'ensemble des mandats de l'IVD, et que la procédure alternative qu'il veut instaurer n'offre pas les garanties d'indépendance et neutralité nécessaires pour des décisions arbitrales. Le projet de loi crée également une confusion juridique. Mme Bensedrine salue la disponibilité du cabinet du Président de la Tunisie à coopérer avec la Commission de Venise et exprime le souhait que l'IVD sera également consultée.

Mme Raoudha Mechichi, conseillère principale de la Présidence de la République tunisienne, remercie également la Commission de Venise en tant que partenaire parmi les plus fiables de la Tunisie. Elle explique que selon la Constitution, le Président a le pouvoir d'initiative législative

dans tous les domaines ; son initiative dans le domaine de la justice transitionnelle est motivée par la surcharge de travail de l'IVD, qui s'explique notamment par l'ampleur de ses compétences et la longueur de la période soumise à sa juridiction. Le projet de loi ne vise pas l'impunité, mais le traitement et le temps les plus adéquats pour chaque type de violation. Dans le domaine économique, la célérité est essentielle afin de stimuler l'économie du pays. Par ailleurs, la réconciliation prévoit la participation de l'IVD : deux de ses membres font partie de la commission de réconciliation, et celle-ci lui transmet un rapport, lui permettant de proposer toutes les mesures à prendre, y compris par rapport aux fonctionnaires. Mme Mechichi précise que la Présidence tiendra compte de l'avis intérimaire de la Commission de Venise dans ses remarques lors de l'audition qui sera organisée par la Commission de la Législation Générale qui est désormais chargée de l'étude du projet de loi.

La Commission adopte l'avis intérimaire sur les aspects institutionnels du Projet de loi sur les procédures spéciales concernant la réconciliation dans les domaines économique et financier de la Tunisie ([CDL-AD\(2015\)032](#)).

Avis sur le projet de loi organique sur la Cour constitutionnelle de la Tunisie

M. Neppi Modona rappelle que le projet d'avis a été transmis aux autorités tunisiennes comme avis préliminaire le 14 juillet 2015 ; cependant, le projet de loi n'ayant pas encore été adopté, il est proposé à la Commission de Venise d'adopter le projet d'avis. Dans l'ensemble, le projet respecte le cadre de la Constitution et les normes internationales. Cependant, il est très important que la Cour ne dépende pas du Gouvernement pour la nomination de son secrétaire général, pour le règlement sur l'organisation du secrétariat et pour la désignation d'un comptable public. Selon le projet, le Gouvernement décide même des robes des juges. En cas de destitution d'un juge, celui-ci devrait bénéficier d'une procédure contradictoire. Le principe général devrait être la publicité des sessions de la Cour et pas l'exclusion du public. L'exigence de ne pas avoir été membre d'un parti politique pendant les dernières 10 ans avant la candidature semble trop rigide. Des règles sur la récusation et le report des juges devaient être précisées. La procédure de l'exception d'inconstitutionnalité devrait prévoir l'obligation du juge ordinaire de donner son propre avis sur cette question. Finalement, il faudrait renforcer la position de la commission spéciale qui examine la recevabilité des exceptions d'inconstitutionnalité. Cette commission ne devrait pas seulement faire des propositions au Président de la Cour, mais elle devrait agir comme un véritable filtre et décider définitivement de l'inadmissibilité en cas d'unanimité au sein de la commission.

M. Jeribi informe la Commission que le projet de loi a été amendé à l'Assemblée depuis la demande d'avis. Malheureusement, la traduction du texte laisse à désirer. Certaines incompréhensions des rapporteurs résultent de cette traduction.

La Commission adopte l'avis sur le projet de loi organique sur la Cour constitutionnelle de la Tunisie ([CDL-AD\(2015\)024](#)).

19. Albania

Mr Kirstaq Traja, Head of the High-Level Group of Experts created by the Ad Hoc Parliamentary Committee on the constitutional reform in Albania, presented to the Commission the draft constitutional amendments providing the framework for a comprehensive reform of the judiciary. In September 2015 the Ad Hoc Committee of the Albanian Parliament had requested an opinion of the Venice Commission on those constitutional amendments.

Mr James Hamilton informed the Plenary about the upcoming visit of a delegation of the Commission to Tirana. The President of the Venice Commission proposed that, given the urgency of the request, a preliminary interim opinion be made available to the Albanian authorities prior to the December Plenary session.

The Commission authorised the rapporteurs to transmit a preliminary opinion on the draft constitutional amendments relating to the judiciary to the authorities of Albania prior to the Plenary Session of December 2015.

20. Draft joint Guidelines on preventing and tackling the misuse of administrative resources during electoral processes

The Secretariat of the Venice Commission had received very recently substantial proposals for amendments to the draft joint Guidelines by the Venice Commission and the OSCE/ODIHR on preventing and tackling the misuse of administrative resources during electoral processes. The Council for Democratic Elections had therefore decided at its meeting held on 22 October 2015 to postpone the adoption of the draft joint Guidelines in order to enable further work on the text.

21. Report on exclusion of offenders from parliament

Mr Kask introduced the draft report, which followed a previous version adopted in June. Specific information had been added on the situation in regional parliaments. The part on Italy had been revised following a recent decision of the Constitutional Court. The analytical part of the report had been developed. Ineligibility of offenders was admissible in order to ensure respect for the Rule of Law. If the simple functioning of the electoral mechanisms enabled the exclusion of offenders, restrictions were not absolutely necessary. This was possible only if only if (1) the majority of voters were in favour of such exclusion; (2) voters were effectively in a position to exclude these people, which implied (2a) internal democracy of political parties or open lists and (2b) that there were no obstacles to free suffrage. Restrictions – which could be included in constitutional or legislative provisions - had to comply with the proportionality principle: this implied taking into account such elements as the nature of the offence, its severity and/or the length of the sentence. Lifetime restrictions were admissible only for extremely serious offences. Sentences for crimes committed abroad had in principle to lead to the same consequences on the right to stand for elections as sentences pronounced in-country if they complied with the rules on fair trial. The loss of a mandate following a conviction was acceptable from the point of view of the voter in particular if the conviction had taken place after the elections.

Mr Bartole informed the Commission that the written text of the decision of the Italian Constitutional Court was not yet available, but the press agent had given the information that the exclusion of offenders was constitutional. It was neither a criminal nor a punitive administrative sanction but a condition of eligibility to public office, so it could be retroactive.

The Commission adopted the report on exclusion of offenders from Parliament ([CDL-AD\(2015\)036](#)).

22. Conference on “Past and present day lustration: similarities, differences, applicable standards” (Prague, 7 September 2015)

Ms Bílková informed the Commission that the conference on “Past and present day lustration: similarities, differences, applicable standards” which had been co-organised by the Venice Commission and the Institute of International Relations, hosted by the Ministry of Foreign

Affairs of the Czech Republic and funded by a voluntary contribution from Azerbaijan, had been a success. The participants had reached the following conclusions: there was no uniform understanding or settled meaning of lustration; there was no single or ideal model of lustration; international standards developed in the 1990s are not necessarily adequate to cover modern lustration; this matter deserves further study. Ms Bílková proposed to the Commission to launch a study on this matter, and to create a working group (in which members were welcome to participate) which would report to the sub-commission on International law.

The Commission decided to carry out a study on the international standards applicable to lustration.

23. Co-operation with the Organisation of Arabic speaking Electoral Management Bodies

The Commission held an exchange of views with the Mr Hisham Kuhail, Member of the Executive Office and with Ms Badrieh Al Balbisi, Secretary General of the Organisation of Arabic speaking Electoral Management Bodies on co-operation with this Organisation. The main objective of the Organisation of Arabic speaking Electoral Management Bodies was to provide a forum for sharing national and international experience and best practices in the electoral field. The organisation had been established in June 2015 and according to its statutes it foresaw three forms of participation in its work: permanent membership, affiliated membership and associate membership. The organisation is composed of three main bodies: the General Assembly, the Executive Office and the General Secretariat.

The Organisation of Arabic speaking Electoral Management Bodies was interested in co-operating with the Venice Commission on a wide range of issues, notably on electoral standards and on capacity-building activities for its members. Ms Al Balbisi expressed her hope that the Venice Commission would assist in organising its next plenary meeting in 2016.

Mr Buquicchio informed the plenary that a specific memorandum of understanding had been signed with the organisation setting a good basis for providing the requested assistance.

24. UniDem-Med Campus

Mr Buquicchio informed the Commission that the first UniDem-Med Campus Seminar on “Human rights and public service” had taken place in Rabat on 14-17 September 2015.

The aim of the UniDem Campus for the Southern Mediterranean Countries is to provide legal capacity-building – in areas related to good governance, the rule of law and fundamental rights - for high-level civil servants of the MENA region (Algeria, Egypt, Jordan, Lebanon, Libya, Morocco, Mauritania, the Palestinian National Authority and Tunisia). This project is funded by the European Union.

The President of the Venice Commission reminded the members that similar seminars (UniDem Campus Trieste) had been organised for the countries of Central and Eastern Europe with the assistance and financing of the authorities of Italy in the framework of the Stability Pact. He expressed his satisfaction with the extension of this project to the countries of Southern Mediterranean. The activity in September had been attended by a number of high level participants from the MENA region, including several Moroccan Ministers participating in the opening ceremony of the event. Such interest from the targeted countries confirmed the validity of the chosen approach and represented an excellent opportunity for future co-operation between the Commission and different countries of the region. The next seminar was planned for December 2015.

25. Information on constitutional developments in other countries

Italy

Mr Bartole informed the Plenary that the revision process of the constitution was still under way and that he would be able to provide concrete information about this process during the December Session of the Venice Commission.

Kazakhstan

Mr. Rogov underlined the importance of the efficient collaboration since 2012 between Kazakhstan and the Venice Commission and welcomed the support of the Commission in the current constitutional reform process. Kazakhstan has entered into a new phase of institutional reform. A national commission for modernisation had been established by a presidential decree in April 2015, for the implementation of institutional reforms and the further modernisation of the Kazakh society and the state. On 20 May 2015, the “100 Concrete steps to Implement Five Institutional Reforms” were published by the Commission for Modernisation. The 100 steps are grouped under five institutional reforms: development of professional civil service, ensuring the rule of law, industrialisation and economic growth, identity and unity and the formation of an accountable government. Kazakhstan might request an opinion of the Venice Commission in 2016.

Norway

Mr Helgesen informed the Commission that the 1814 Constitution of Norway had no provisions on constitutional control of acts of Parliament, but that the Supreme Court had established such a competence in its case-law more than 150 years ago. Mr Helgesen himself and other constitutional lawyers had worked towards including this constitutional custom into the written Constitution. Some politicians and academics had expressed scepticism towards such a provision because they feared that the Supreme Court would exercise its control in an even stricter manner if it had an express constitutional basis to do so. However, this year Article 89 of the Constitution had been amended now providing explicitly for constitutional control. Already in 2014 a bill of rights had been incorporated into the Constitution and since then the Supreme Court had actively used this bill of rights to control legislation, notably in the field of migration law.

26. Report of the meeting of the Council for Democratic Elections (22 October 2015)

Mr Wiene, President of the Council for Democratic Elections, informed the Commission in particular that Mr Gross had presented the outline of his future report on “Lessons to be learnt from 25 years of international election observation”. This report would be divided into three parts, covering respectively the history of international election observation, 25 years of international election observation missions and the lessons that might be learnt from 25 years of such missions. Mr Gross would take into account in his future report several proposals made during the meeting.

27. Report of the joint meeting of the Sub-Commissions on Democratic Institutions and on Fundamental Rights (22 October 2015)

Ms Suchocka informed the Commission that the draft opinions on the reconciliation process in Tunisia and on the integrity checking in Ukraine had been examined at the joint meeting of the Sub-commissions. Mr Helgesen added that the Sub-Commission continued to explore the possibility of organising a conference on the relations between the ECtHR and the national jurisdictions next year in Oslo.

28. Dates of the next sessions

The final session for 2015 was confirmed as follows:

105th Plenary Session 18-19 December 2015

The schedule of sessions for 2016 was confirmed as follows:

106th Plenary Session 11-12 March 2016
107th Plenary Session 10-11 June 2016
108th Plenary Session 14-15 October 2016
109th Plenary Session 9-10 December 2016

Sub-Commission meetings as well as the meetings of the Council for Democratic Elections will take place on the day before the Plenary Sessions.

[Link to the list of participants](#)