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TABLE OF CONTENTS / TABLE DES MATIERES

1. Adoption of the agenda

The agenda was adopted without amendments (CDL-PL-OJ(2022)004ann).

2. Communication from the President

The President, Ms Claire Bazy Malaurie, welcomed the special guests and delegations, and referred to her recent activities as the President set out in document CDL(2022)044. She had important meetings with representatives of the European Union: on 1 December 2022, she participated in an interparliamentary meeting of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) which focuses on the independence of the judiciary and the resilience of democratic institutions; on 5 December 2022, she met with the President of the European Parliament, Ms Roberta Metsola, who stressed the importance of the work of the Venice Commission to the European Parliament, and the EU Commissioner for Values and Transparency, Věra Jourová. Ms Jourová's presence in Venice at this Plenary Session was the successful result of such meeting.

3. Communication from the Enlarged Bureau

The President informed the Commission of the discussions that took place at the meeting of the Enlarged Bureau on 15 December 2022 concerning the recently issued urgent opinion on "improving the procedure for the selection of candidate for the position of judge of the Constitutional Court of Ukraine on a Competitive Basis" and requests for opinions concerning (draft) laws on oligarchs in Ukraine and Georgia and possibly the Republic of Moldova, which would be dealt with at the March session.

Another topic dealt by the Enlarged Bureau was the work of the Sub-Commission on working methods (see below item 23). The Bureau had approved a new format of opinions, the "follow-up opinions", to address the increasing requests of the impact achieved through the Commission's recommendations in earlier opinions. Follow-up opinions will examine a draft legal text in relation to which the Commission has issued previous opinions taking into account its previous analysis and recommendations. They thus examine whether and how the recommendations contained in the previous opinion(s) have been followed. Follow-up opinions can involve a visit to the country concerned if this is useful. Follow-up information (see item 9 below) would continue to be provided by the Secretariat for other opinions after the final adoption of the relevant text.

Furthermore, the Enlarged Bureau recalled that pursuant to the Commission's statute, Member States can appoint only one substitute member, and this rule would be strictly applied in the future. Finally, the Enlarged Bureau recalled that the rules about the duty of members not to intervene in topics regarding their own country and to declare any possible conflict of interest. These rules would continue to be strictly implemented in the future and a reflection would be carried out as to how to reinforce them.

4. Communication from the Secretariat

Ms Granata-Menghini informed the Commission of the Committee of Ministers' decision to grant the request to increase the Commission's adjusted budget for 2023, through the creation of two additional posts as of June 2023. This was a significant sign of support, particularly noteworthy in the current time of crisis, and important in light of the increasing workload of the Commission. In addition, the Commission recently received voluntary contributions from Spain and Sweden, for which it is very grateful.

Ms Granata-Menghini also provided practical details for the session and informed the Commission of the change of dates for the June 2023 session: due to a renovation of the Scuola, the 135th plenary session will be held on **9-10 June 2023**.

5. Co-operation with the Committee of Ministers

Ambassador Ivan Orlić, the Permanent Representative of Bosnia and Herzegovina with the Council of Europe, thanked the Commission for its expert assistance in the process of on-going discussions on necessary legal amendments in the fields of elections, the Constitutional Court, rights of minorities and other important issues for Bosnia and Herzegovina. Such assistance, especially concerning the necessary changes of the constitutional and electoral legislation, was all the more important in light of the decision by the EU leaders on 15 December 2022 to grant the country an EU candidate status. This was an important step for Bosnia and Herzegovina, and the work of the Venice Commission contributed to this process.

Ambassador Orlić expressed concerns over the reputation of the Council of Europe but noted that this was not the case with certain mechanisms of the Council, including the Venice Commission which is highly respected by both authorities and ordinary citizens. This is especially important in countries that are still undergoing transition with state institutions of questionable reputation which at times serve as a space for corruption and political manipulation. Therefore, an independent professional legal advisory body such as the Commission is crucial for democratic development.

6. Cooperation with the Parliamentary Assembly

The President of the Parliamentary Assembly of the Council of Europe (PACE), Mr Tiny Kox, referred to the "miracle of Venice" which resulted in the advice of the Venice Commission, despite not having formal powers, being extremely powerful. The opinions of the Venice Commission are cherished by the Parliamentary Assembly, one of the main 'clients' of the Commission. This is particularly true in the context of the ongoing crisis in Russia, along with the challenges to international law and multilateralism as a means to achieve peace. It requires a great deal of belief to confirm the values of the Council of Europe and to recommit to multilateralism as the most effective response to these threats. The decision of the Committee of Ministers to convene a summit of Heads of State and Government in Iceland in May 2023 goes in this direction. In this context, Mr Kox stressed the crucial need for cooperation between the Assembly and the Venice Commission.

Thanks to the high quality of its opinions, the Venice Commission has become a highly respected body; this is why the Parliamentary Assembly so often seeks its advice. One of the Parliamentary Assembly's principal objectives is to reverse the backsliding of democracy in the Member States of the Council of Europe. In this context, PACE attached great importance, notably to the Code of Good Practice in Electoral Matters, the Rule of Law Checklist, the Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy.

Mr Kox informed the Commission of PACE's recommendations to the Council of Europe to set up new tools in the area of democracy, including a permanent platform for democracy. This would serve as a mechanism for the exchange of information, good practices and innovation and be beneficial to the public authorities and other stakeholders of the Member States as an early warning system to prevent or address worrying developments with regard to compliance with the democratic standards. This could go even further with the establishment of an independent Commissioner for Democracy.

In January 2022, the Committee on Political Affairs and Democracy set up a Sub-Committee on Democracy to bring greater dynamism to its work in the field of democracy and act as a parliamentary platform to enhance the capacity to identify and address emerging needs in the area of democracy. The Revised Code of Good Practice on Referendums (CDL-AD(2022)015) will be on the agenda of the Committee of Political Affairs with a view to its endorsement by the Assembly.

Mr Kox referred to a series of issues which deserved special attention. He applauded the adoption of a very useful opinion of the Venice Commission on Kyrgyzstan (CDL-AD(2021)007),

a partner for democracy of PACE, regarding issues which had not been properly dealt with before, and the need for Kyrgyzstan to be more active in this respect.

Secondly, concerning the suspension of all contacts with Belarus due to its support of the Russian Federation's illegal invasion of Ukraine, Mr Kox expressed his gratitude for the Commission's opinion on the constitutional reform in Belarus (CDL-AD(2022)035). He also referred to the cooperation between the Council of Europe and the democratic opposition in Belarus; this could lead in the near future to legislative texts being brought to the attention of PACE and the Venice Commission. Thirdly, regarding the vote of the Parliamentary Assembly to put Hungary under a full monitoring procedure, PACE keeps encouraging the Hungarian authorities to seek the advice of the Council of Europe bodies, including the Venice Commission. Fourthly, Mr Kox expresses concern regarding the rule of law situation in Hungary, Poland, the Republic of Moldova and Türkiye. Lastly, concerning the situation in Ukraine, Mr Kox called for an immediate cessation of the war and pointed out that a lot of legal advice will be needed after the conflict, including from the Venice Commission.

The President of the Venice Commission thanked the Parliamentary Assembly for its continued support. In addition to the work done in the field of electoral observations, she mentioned that out of the 48 requests for opinions in 2022, 9 were from PACE. The newly devised follow-up opinions will facilitate dialogue between the Venice Commission and other bodies of the Council of Europe. There should be more exchange on the follow up to Venice Commission opinions requested by PACE.

On Saturday, 17 December, the Presidential Committee of the Parliamentary Assembly would meet with the Commission's Enlarged Bureau in Venice.

7. Co-operation with the Congress of Local and Regional Authorities

Mr Stewart Dickson, Chairman of the Congress Monitoring Committee, informed the Commission of the Congress' election of Mr Mathieu Mori from France as the Secretary General of the Congress at its October plenary session. The Congress held debates on the Russian war against Ukraine and the role of the local authorities in responding to climate change. The Mayor of Kyiv and the Ukrainian Minister for Community and Territorial Development participated (online) in the debate on Ukraine and updated Congress members on the situation on the ground.

On climate change, the Congress adopted a report, recommendation and resolution entitled "A fundamental right to the environment: a matter for local and regional authorities". This called for the drafting of an Additional Protocol to the European Charter of Local Self-Government on the environment which is now being considered by the Committee of Ministers. Rather than a formal right, this Protocol would relate to good governance, adopting a preventive rather than a repressive approach, recognising and empowering grassroots authorities for the protection of the environment, including climate change. The Congress also adopted a resolution to welcome the Code of Good Practice on Referendums, as revised by the Commission.

Concerning monitoring activities, reports recommending a more explicit introduction of the principle of local self-government into the Belgian Constitution have been adopted for Belgium. During a monitoring visit to Romania in October 2022, the delegation was unable to meet the members of the Constitutional Court, even though this was crucial for enabling the Congress rapporteurs to assess whether legal protection for the local self-government was duly guaranteed.

Regarding election observations, in November 2022, the Congress delegation observed the local elections in Slovenia. The preliminary conclusion welcomed the orderly ballot but called for more coherent regulations and a reduction in the consecutive terms of office for mayors in order to prevent the misuse of administrative resources.

A monitoring visit to Türkiye to assess the follow-up actions to the 2020 Venice Commission Opinion on the replacement of elected candidates and mayors is envisaged for early 2023. The

participation of a representative of the Venice Commission would be beneficial. Recent developments in Türkiye – namely, the prison sentence and political ban imposed on the Mayor of Istanbul by a Turkish court on 14 December 2022 – raised serious concerns and triggered a statement by the Congress President.

The Congress Chamber of Regions will hold a debate on the role of the second chambers of parliaments in representing regional interests at its next sitting in March 2023, with a report envisaged for the October 2023 session.

8. Exchange of views with the Regione Veneto

Ms Bazy Malaurie thanked Ms Bisson, Representative of the Region, for the continued support of the Regione Veneto to the Venice Commission.

9. Follow-up to previous Venice Commission opinions

The President referred to the follow-up, presented in document CDL(2022)052, to the following Venice Commission's opinions:

- Kazakhstan - Opinion on the Draft Constitutional Law "On the Commissioner for Human Rights" (CDL-AD(2022)028);
- Ukraine - *Amicus Curiae* Brief on the Limits of Subsequent (ex-post) Review of Constitutional Amendments by the Constitutional Court (CDL-AD(2022)012).

Mr Garrone informed the Commission of the follow-up to the joint opinion on the draft electoral code of the Republic of Moldova (CDL-AD(2022)025) adopted in October 2022, at the request of the President of the Parliament. This code was the result of a comprehensive reform of the electoral legislation of the Republic of Moldova and was adopted by the Parliament on 8 December 2022.

A number of key recommendations of the joint opinion were followed: making clear references as to what constitutes an objective criterion for the provision of two days of voting; removing vague grounds for dismissal of the members of the Central Electoral Commission (CEC); removing from the responsibilities of the CEC the task of reviewing appeals on alleged false information in print and online media. Concerning the recommendation to specify an exhaustive list of circumstances which could lead to the de-registration of political parties, a reference has been made to the law on political parties. Other recommendations were followed, including by making reference to elections in the Autonomous Territorial Unit of Gagauzia.

Other recommendations remain unaddressed, including the following key recommendations: to ensure the integrity of the election materials in case of two-day voting; to clarify the appointment procedures of the CEC members and limit the tenure of the chairpersons of district electoral commissions; and to review the list of grounds for the de-registration of candidates.

Mr Dürr informed the Commission that on 24 November 2022 the Constitutional Court of the Republic of Moldova rendered a decision of inadmissibility concerning several applications relating to article 330^2 of the criminal code concerning the offense of illicit enrichment of the criminal code. The Constitutional Court referred abundantly to the joint amicus curiae brief (CDL-AD(2022)029) and concluded that the relevant article is not unconstitutional, drawing on the arguments of the the Venice Commission.

Furthermore, three draft opinions on the agenda concerned follow-ups to previous opinions and would be adopted in the form of the new “Follow-up opinion”:

- Kosovo - Draft Follow-up opinion up to the opinion on the amendments to the draft law on the State Bureau for the Verification and Compensation of Unjustified Assets (item 13).

- Republic of Moldova - Draft joint follow-up opinion to the joint opinion on the draft law on the Supreme Court of Justice of Moldova (item 14)
- Serbia - Draft follow-up opinion to the opinion on three draft laws implementing constitutional amendments on the judiciary (item 15)

10. Armenia

10.1 Draft opinion on amendments to the Judicial Code

Mr Mathieu explained that the draft opinion, prepared jointly with DG I, had been requested by the former Minister of Justice of Armenia on 25 August 2022. It concerned the draft amendments to the Judicial Code introduced in response to the recommendations from the Venice Commission and GRECO. Two issues were addressed in the draft opinion: the power of the Minister of Justice to bring disciplinary proceedings against judges and the possibility of appealing against the decisions of the High Judicial Council (the HJC) in disciplinary matters. On the first point, the power of the Minister to trigger disciplinary cases is seen as a way to combat judicial corporatism. The legal framework in Armenia is not the same as that in Montenegro, which is analysed in another opinion before the Plenary. Even though it may be phased out eventually, the power of the Minister is not as such contrary to the European standards if other mechanisms of triggering disciplinary cases operate efficiently. The second question concerned a new system of appeals against the decisions of the HJC. A split of the HJC into two panels – a first instance panel and a second instance (appeal) panel – was proposed. The ideal solution would be to give the power of appeal to an outside judicial body, but this would seem to be contrary to the Constitution. Thus, the solution proposed by the drafters, having a system of appeals, is the only way of responding to the recommendations of the Council of Europe bodies. The proposed model raises certain problems – namely a judge may be found guilty of a disciplinary offence by less than the majority of the votes of the HJC members. To address this, the draft opinion proposes a system of double majority which would be required to "convict" a judge of a disciplinary breach. In any event, it is ultimately the responsibility of the Constitutional Court to ensure that the proposed model is in conformity with the Constitution.

Mr Artyom Sujan, Adviser to the Minister of Justice of Armenia, explained that the draft amendments aim to address concerns expressed by the Venice Commission and GRECO in their previous reports. He agreed that the proposed model providing for the creation of two separate panels within the HJC is the only solution compatible with the Constitution. However, the requirement for votes of the HJC members to convict a judge of a disciplinary breach should not be set too high to avoid impunity. In this regard, the double majority proposal made in the draft opinion sets a very high threshold.

Mr Mathieu pointed out that following the comments by the Armenian authorities, certain changes had been introduced in the draft opinion, regarding particularly the proposal of a double majority. Ms Suchocka stressed the need for a solution that is constitutionally acceptable and simultaneously compatible with the European standards.

The Commission adopted the Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft amendments to the Judicial Code of Armenia (CDL-AD(2022)044), previously examined by the Sub-Commission on the Judiciary at its meeting on 15 December 2022.

10.2 Draft amicus curiae brief on issues related to the law on confiscation of illicit property

Mr Pinelli informed the Commission that the Law on Confiscation of Property of Illegal Illicit Origin of 16 April 2020 was challenged before the Constitutional Court of Armenia by members of the Parliament. The President of the Constitutional Court requested an *amicus curiae* brief, focusing on the following questions: (1) the possibility of using the presumption of illicit origin of assets in such proceedings; (2) the allocation of the burden of proof and the applicable standard of proof; (3) the retrospective application of the Law; and (4) the absence of a time-limit for initiating the

confiscation proceedings (and ordering confiscation) after the final conviction of the predicate crime.

The overall objective of the Law is to assist the authorities in fighting corruption. The ECtHR recognises that the forfeiture of money or assets obtained through illegal activities or paid for with the proceeds of crime is a necessary and effective means of combating criminal activities. Such an aim can be achieved not only through criminal proceedings but also the employment other legal tools, such as civil forfeiture. Civil forfeiture mechanisms are often based on a presumption of illicit origin of certain types of assets. The ECtHR does not rule out such presumptions in principle, in so far as they are applied within reasonable limits and if their operation is accompanied by effective procedural guarantees.

Under the Law, the mechanism of civil forfeiture is indeed based on a presumption that the property is of illicit origin as long as the lawfulness of its acquisition has not been proved in court proceedings. While this presumption provides a significant scope of interference with human rights, it does not seem disproportionate. First, the difficulties in fighting against corruption must be considered. Often, it is nearly impossible to prove the illicit origin of property. This explains why there is no need to demonstrate *beyond reasonable doubt* that the asset was acquired illegally and a lower standard of proof is required. The Law does not describe in clear terms the standard of proof required in court proceedings; a precise description of the standard of proof referring to *the balance of probabilities* could therefore be added. Second, in terms of allocating the burden of proof, it is for the competent authority to collect evidence and prove that the sources of legitimate income do not correspond to the property identified. In all such cases, the defendant is entitled to the full range of procedural rights available in civil proceedings. The defendant thus may refute the presumption by producing evidence of his or her acquisition of the property from a legitimate source. If in any case, evidence is inaccessible to the respondent for objective reasons, the Law should contain a specific safeguard that prohibits findings being made based on the presumption at issue. It is equally important that the Law offer guarantees for *bona fide* acquirers.

As regards retroactivity of the Law and its broad application in time, it is generally accepted that the fight against corruption makes it necessary to act not only *pro futuro*, but also with a view to address the acquisition of property in the past. The Law relates to the on-going fact: the illicit ownership of the property started in the past, but still continues. The expectation to be able to keep the illegally acquired assets does not weigh heavily in comparison to the interest of the public to "correct" such unjust enrichment. The approach taken by the ECtHR suggests that such factors as a large scope of application of law in time may be an issue, which, however, is not decisive in itself to render the whole model disproportionate to the legitimate aim pursued. That being said, the duty to give explanations about the origins of the property should remain reasonable. Furthermore, the timeframe for the forfeiture of property should be reasonable and be applied equally to all cases, and not left to the discretion of the authorities.

The Commission adopted the *amicus curiae* brief on certain questions related to the Law of Armenia on Confiscation of Property of Illegal Illicit Origin (CDL-AD(2022)048).

This draft *amicus curiae* brief was prepared in the framework of the Quick Response Mechanism (QRM), co-funded by the European Union and the Council of Europe and implemented by the Council of Europe in their Partnership for Good Governance Phase II.

10a. Cooperation with the European Commission

Ms Jourova, Vice-President of the European Commission and Commissioner for Values and Transparency, pointed out that the European Commission (EC) and the Venice Commission had close cooperation on many issues. The two bodies share common values with the aim of preserving democracy: while Member States have different national identities, legal systems and traditions, the core meaning of the rule of law is the same across Europe. She recognised the

valuable contribution of the Venice Commission for the promotion of the rule of law in Europe. The Venice Commission opinions have been a crucial source in developing the EU Commission policy, as they provide key standards on many issues falling under the scope of the Rule of Law Report, in particular as concerns the independence and efficiency of the justice system. These are relevant for EU Member States as well as in the context of the accession processes. The aim of the report is to help Member States to uphold democracy and prevent deepening of existing problems. The current report, published in July 2022, examines developments in four keys areas (justice system, anti-corruption framework, media pluralism and other institutional issues related to checks and balances), and it includes new topics, namely public service media and implementation of ECHR judgments. In the analysis, the Venice Commission opinions are taken into consideration among other standards (CJEU case-law, ECHR judgements, Council of Europe Committee of Ministers' recommendations). For the first time, this year the report contains specific recommendations addressed to the Member States to encourage them to take reforms where improvements are needed. Ms Jourova expressed appreciation for the Council of Europe's contribution to the report. Its success depends on its credibility; therefore it is important to ensure the robustness and transparency of methodology, sources and procedure. Ms Jourova referred to the report on Romania in the framework of the Cooperation and Verification Mechanism. The EC has encouraged Romanian authorities to seek the advice of the Venice Commission on the justice reform and it took note of the urgent opinion issued in November 2022, concluding that the law is heading in the right direction. Finally, Ms Jourova referred to the Commission's work outside the EU, as the rule of law is a guiding principle also for its external action. Its respect is essential to ensure the independence of the judiciary, the respect for fundamental rights, the fight against corruption and organised crime. Alignment to European standards is crucial for all countries wishing to accede the EU and it is the practice to ask countries to request the advice of the Venice Commission and to follow the recommendations.

During the discussion reference was made to the three pillars of the Council of Europe (democracy, human rights and rule of law) and to the ECHR as a basis of the work of the Venice Commission, taking into account the complexity of systems, but also the mentality, the culture, the interpretation and implementation of the main texts on the rule of law. Both the EC and the Venice Commission have the objective of consolidating democracy. Many countries joined the EU with that aim and joined to safeguard it. Members referred to the recent attribution of candidate status to Ukraine, as well as Bosnia and Herzegovina and the need to prevent backsliding in Eastern and Central Europe. The fulfilment of Copenhagen principles alone is no longer sufficient and the mechanism for accession would need to be revised. While the rule of law approach of both organisations was similar, the Venice Commission dealt with ad hoc requests, whereas the EU Commission made regular reports, based inter alia on the Venice Commission's opinions.

Ms Jourova explained that it is necessary to consider the culture, mentality, interpretation, constitutional traditions and history of each country in order to come to a common set of parameters and definitions to assess the state of affairs. This is done together with the Member States, the report itself is a common work. The definitions and case-law developed by the Court of Justice are the basis of this joint work. Ms Jourova agreed that there is more to do for strengthening the rule of law in the Member States, as it takes decades to build what can be destroyed in one night. The Commission used infringement procedures but also new tools such as the rule of law report and financial conditionality, which is the strongest tool. Backsliding was an increasing trend also in other EU Member States. The EU focuses on free and fair elections, protection against digital manipulation in elections, fight against disinformation, support for strong media freedom, also in the form of preventive measures in order not to reach the point of non-return. As concerns anti-corruption efforts, the EU should have its own house in order.

Ms Jourova explained that according to the methodology of the rule of law report, after a first data-collection phase, elements relevant from the rule of law perspective for which the EC has competence are taken into account and assessed. The report has a preventive nature but takes stock of positive developments and it will repeat the recommendations that are not followed. The methodology and sources are very clear, strict, solid and transparent with the aim of having a tool with the highest possible credibility. Prior to finalisation, the Ministry of Justice of each

Member State is asked for a factual check of the information included in the report, and eventually the assessment is made. They aim at enriching it continuously, e.g. with the new issues and focus, but the four main chapters remain the same. On the EU institutions, they are working on increasing transparency and credibility of EU institutions (transparency register), issuing the anti-corruption strategy with a chapter focusing only on the EU institutions, and the setting up of an inter-institutional ethic body. It is essential for EU institutions to respect their limits and competences. Ms Jourova expressed her availability for further discussions on these issues. The EC insists on the rule of law principles, while respecting the 27 different systems. The rule of law is not only a legal issue but had also a wider scope, based Article 2 of the Treaty. Therefore, these questions were discussed at the General Affairs Council of the EU.

President Bazy Malaurie noted that the Venice Commission is composed of professors, lawyers, judges, ministers, politicians, and it is therefore well-balanced for taking into account the wider aspects of the rule of law.

11. Georgia

Ms Meaghan Fitzgerald, Head of the Election Department of OSCE/ODIHR, introduced the draft joint opinion of the Venice Commission and the OSCE/ODIHR on draft amendments to the Electoral Code and the Law on Citizens' Political Associations, requested by the Chairman of the Parliament of Georgia. The current electoral reform is connected to Georgia's recent application to join the EU, followed by the latter's recommendation to grant Georgia EU candidate status if it fulfils the 12 priority objectives, including improvements to the electoral framework.

The current draft amendments addressed several of the previous Venice Commission and ODIHR recommendations but failed to provide a comprehensive, systemic review of the Georgian electoral law through an inclusive consultation process. The legislative issues that remained unaddressed in the draft amendments related to, among others, constituency delimitation, restrictive residence requirements for presidential and parliamentary candidates and other undue criteria on voter and candidate eligibility, additional aspects regarding the formation of election commissions, provisions on the misuse of official positions for campaign purposes, high donation limits for election campaigns affecting the level playing field, further regulation and oversight of campaign finance, further elaborating media campaign regulations, strengthening the framework for electoral dispute resolution to ensure effective legal remedy, recounts and annulments, and measures to prevent voter intimidation.

Four key recommendations aimed at further strengthening the recruitment and selection process for the formation of election administration bodies, further reducing the residency requirement for mayoral and municipal council candidates, establishing a more detailed regulatory framework for the use of new voting technologies, and establishing clear and comprehensive criteria for the conduct of recounts, as well as a number of additional recommendations.

Mr Frendo stressed that although the draft amendments were a step in the right direction, only a more holistic and systemic reform, prepared in an inclusive process and implemented well before the next elections could improve public trust in the democratic system and ensure the necessary stability of the process. Every effort must be made to reach a consensus between the majority and the opposition parties and to fully involve the civil society in the reform process. Regarding the planned extension of the use of new voting technologies, it is necessary to ensure that the new use of electronic means is sufficiently planned and prepared in advance, effective voter education and election administration training are undertaken, and all measures to foster public trust in the system are implemented.

Mr Givi Mikanadze, Head of the Working Group on Electoral Reform, First Deputy of the Georgian Dream Party, informed the Commission that the recommendations included in the draft joint opinion have already been considered by the parliamentary Working Group on Electoral Reform and the Legal Issues Committee and that a number of amendments (e.g. concerning residency requirements for mayoral and municipal council candidates, deadlines for election resolution disputes and statute of limitations for electoral offences, the minimum number of candidates a

political party must include on its candidate list, manual counts at each polling station in parallel to the electronic count, and criteria for defining the polling stations where electronic means would be used for voting) have been introduced in the bill that was adopted by the Parliament in the 2nd reading on 15 December 2022, with wide support from almost all the opposition parties and the independent MPs. He stated that the process was transparent and inclusive in which all political parties, relevant public agencies and civil society organisations were invited to participate. In his view, most of the previous Venice Commission and ODIHR recommendations were addressed by the current reform, taken together with the last amendments of 2021.

The Commission adopted the joint opinion of the Venice Commission and the OSCE/ODIHR on draft amendments to the Election Code of Georgia (CDL-AD(2022)047), previously approved by the Council for Democratic Elections at its meeting on 15 December 2022.

This opinion was prepared in the framework of the Quick Response Mechanism (QRM), co-funded by the European Union and the Council of Europe and implemented by the Council of Europe in their Partnership for Good Governance Phase II.

12. Montenegro

12.1 Opinion on the draft amendments to the Law on the Judicial Council and Judges

Ms Cartabia presented the draft opinion, requested by the Minister of Justice of Montenegro, which concerned a comprehensive reform of the Judicial Council of Montenegro and the status of the judges. She explained that the purpose of the reform was to strengthen the independence, responsibility, and efficiency of the system, with a view to Montenegro's accession to the European Union. The draft opinion praised the rich and inclusive public debate on the draft amendments organised by the Ministry of Justice. At the same time, it identified a series of issues that needed to be tackled to improve the law and put it fully in line with international standards. At the outset, the work-related rights of the judges and due to the specificity of the rules applicable to the judiciary, the judges' special status in the society need to be regulated in the law, and the basic principle of judicial independence must be protected and upheld. Regarding the anti-deadlock mechanism for the election of the lay members of the Judicial Council, the draft opinion made suggestions for a more effective mechanism because the current one did not address the anomalies such as some lay members holding office for 9 years. The draft opinion, while welcoming the introduction of a new ineligibility criteria for the judicial and lay members of the Judicial Council, recommended a reduction of the cooling-off period to 5 years from 10 insofar as the "political" incompatibility is concerned. Fourthly, the provision regulating the interim President of the Supreme Court should be limited to exceptional situations to prevent exceptions from becoming the rule. Insofar as the purpose of the evaluation of the judges is not only to promote them to higher position but also to promote independence, integrity, quality, and effectiveness of the judiciary, there is no reason to exclude the members of the Supreme Court from the evaluation. Ms Cartabia also expressed some concerns with regard to the employment of the number of overturned decisions as a criterion for the evaluation of judges, as this could tame the independence of the judiciary. While welcoming the new provisions detailing the work of the Commission for the Code of Ethics, the Venice Commission called for a clearer distinction between the ethical and the disciplinary levels. Lastly, the draft opinion addressed the issue of proportionality of the disciplinary sanctions and in particular the provision leading to the automatic dismissal of the members of the Judicial Council who received a disciplinary sanction, regardless of their gravity.

Mr Marko Kovač, Minister of Justice of Montenegro, thanked the Venice Commission for recognizing the importance of the reform and informed the Venice Commission that the reform will strengthen the independence of the judiciary and reinforce the low level of trust in the judiciary, which has hitherto slowed down the country's path toward the EU's accession. While carefully considering the findings of the Venice Commission, the Minister of Justice expressed

his disagreement with certain findings. Regarding the work-related rights of the judges, the Minister understood the importance of this issue but also recalled that the rules have to apply equally to all professions in Montenegro. Regarding disciplinary sanctions, the Minister of Justice maintained that a judge who was charged in disciplinary proceedings, regardless of the severity of the offense, should not be able to perform the very important function of a member of the Judicial Council. When it comes to the conditions and the procedure for appointing the acting President of the Supreme Court, the Ministry of Justice argued that the proposed solution is reasonable and should be kept to avoid any undue deadlock and to respect the constitutional prerogatives. While acknowledging that there is room for improvement with the evaluation criteria, the Minister of Justice disagreed with the proposal regarding the evaluation of the judges of the Supreme Court, stating that the main purpose of the such evaluation is the promotion to higher courts. Regarding the disciplinary liability of the judges, the Minister explained that the amendments were implemented to address problems that arose in the practical application of this regulation, and therefore did not agree with the suggestion to narrow the subjects capable of triggering the disciplinary liability of a judge. The Minister finally expressed his wish that the comments be considered by the Commission.

Ms Cartabia confirmed that the Commission overall welcomes the scope of the reform. On the election of an interim president, she reiterated that the Venice Commission's remark was not made to discourage the normal way of electing a President. On the evaluation of the judges of the Supreme Court, the purpose of the evaluation should be to improve the quality of the judicial activity and that a special form of evaluation should be worked out.

The Commission adopted the Opinion on the draft amendments to the Law on the Judicial Council and Judges of Montenegro (CDL-AD(2022)050), previously examined at the Joint Meeting of the Sub-Commissions on the Rule of Law and the Judiciary on 15 December 2022.

12.2 Urgent opinion on the amendments to the Law on the President of Montenegro

Mr Dimitrov reported that the President of Montenegro had requested an urgent opinion on the law on the status and the powers of the President. The background was that the political situation was stuck by the fact that after a government failed, the attempt to establish a new government was successful only a day after the expiry of the deadline. The President did not accept this government and instead suggested calling a snap election. The Constitution did not covering this situation, except for the case where the parliament itself takes a decision for new election but with a 41 out of 81 majority it was difficult to make decisions. At the same time, the parliament has not been able to elect four vacant positions for judges of the Constitutional Court, which therefore has no quorum. As a result of this, the law cannot be challenged before the Constitutional Court. Discussions with stakeholders had failed. The solution would be to elect the judges of the Constitutional Court, which is also responsible for electoral disputes in case of elections. Therefore, the urgent opinion recommended electing the judges of the Constitutional Court and not to adopt the law until the Court is operational. Unfortunately, the opinion had not been taken into account. The Constitutional Court judges were not elected, and the Law was nevertheless adopted on 12 December 2022.

Ms Bazy Malaurie recalled her public statement in this respect and called once more upon the Montenegrin authorities to respect the principle of loyal cooperation between State organs and to act responsibly to overcome the institutional crisis.

The Commission endorsed the urgent opinion on the Law on amendments to the Law on the President of Montenegro (CDL-AD(2022)053).

13. Kosovo

Ms Nussberger introduced the draft follow-up opinion to the opinion on the amendments to the draft Law on the State Office for Verification and Compensation of Unjustified Assets, requested by the President of the Assembly of Kosovo. The previous opinion had been adopted in June 2022 (CDL-AD(2022)014) and it included six key recommendations and a number of additional recommendations. On that basis, the draft law had been significantly revised. She noted that non-conviction based, civil confiscation of unjustified assets was allowed under certain conditions, for example, as a legitimate tool to fight large-scale corruption and organised crime. She further recalled that in the original opinion some doubts were expressed as to the need and usefulness of establishing a new body, the State Bureau for Verification and Confiscation of Unjustified Assets, given the range of different State bodies already involved in the fight against corruption-related crimes. That said, the authorities clearly saw a need for such a new, specialised body and amended the draft law to ensure that the Bureau has sufficient resources and a high degree of independence. Most importantly, the oversight of the Bureau was entrusted to a newly composed Oversight Committee, whose members would come from outside the political sphere, in line with the Commission's key recommendation. This committee would be responsible for proposing the appointment and dismissal of the Director General of the Bureau under a revised selection procedure, as recommended. Furthermore, the revised draft law defined more clearly the conditions for initiating the confiscation and verification procedures, clarified the burden of proof and provided for adequate human rights guarantees (e.g., problematic regulations regarding family members of persons concerned by asset verification, as well as politically exposed persons, have been removed). The draft follow-up opinion included a limited number of new recommendations (e.g., concerning the definition of the term "unjustified assets" and the establishment of an evidentiary standard to justify the beginning of the proceedings) but overall, it drew a very positive conclusion as almost all previous recommendations had been fully followed by the authorities. Mr James Hamilton, former member, and Mr Meridor also commended the authorities of Kosovo for this outstanding example of constructive cooperation. They stressed the fact that the main challenge now lies in the implementation of the law.

Ms Albulena Haxhiu, Minister of Justice of Kosovo, thanked the Commission for the two opinions which proved to be very helpful for the parliamentary work. She pointed out that every single recommendation of the original opinion had been considered by a specific working group through an inclusive process, involving all the main political actors, representatives of civil society and of international organisations, and lead to the substantial revision of the draft law. She gave an overview of the amendments and added that the new recommendations would also be taken into account by the authorities.

The Commission adopted the Follow-up Opinion to the Opinion on the draft Law on the State Office for Verification and Compensation of Unjustified Assets (CDL-AD(2022)053).

This opinion was prepared in the framework of the Expert Services Coordination Mechanism (ECM), which is part of the joint European Union and Council of Europe programme "Horizontal Facility for the Western Balkans and Turkey - Phase II".

14. Republic of Moldova

14.1 Amicus curiae brief on the prohibition of political parties

Ms Pabel stated that this brief related to a case concerning the constitutionality of the Şor party and the request made by the Prime Minister to the Constitutional Court requesting its dissolution based on the accusations of criminality of the party founder and the members of the parliament, repeated irregularities related to its political party financing, and interference in elections on behalf of the Russian Federation. The Constitutional Court had asked two questions to the Venice Commission. The first question related to the applicable European standards. These included

hard and soft law, decisions of the European Court of Human Rights, as well as the opinions and studies of the Venice Commission. The focus was on Art. 11 ECHR as interpreted by the Court; while this provision did not prevent the prohibition and dissolution of parties in principle, the limitation clause of Article 11(2) should be interpreted restrictively, in conformity with the principle of proportionality; specific behaviour should not automatically lead to a prohibition. If the leaders of political parties incited violence, destruction of democracy and flouting of rights and freedoms, these could however lead to a prohibition. The brief referred to the essential role of political parties in a pluralist democracy, the exceptional nature of a prohibition as a means of last resort; the need to ensure the necessity and proportionality of the measure to a legitimate aim; independent court proceedings; and due process.

The second question related to actions which could lead to the declaration of a party as unconstitutional, which would, by their nature, affect political pluralism, the principles of the rule of law, sovereignty, independence, and territorial integrity of the state. Ms Pabel stressed the limited role of the Venice Commission and its inability to replace the Constitutional Court in assessing the specific facts of the case. It belonged to that Court to identify acts violating these principles. The brief gave examples of actions which could lead to a prohibition, such as the actions of the leaders of a party which may have gravely undermined one of these principles but once again points out that the final say on the constitutionality of such belongs to the Constitutional Court.

Ms Bazy-Malaurie informed the Commission that shortly before the session, she received a request from the party in question to participate in the plenary session but that she replied that for *amicus curiae* briefs the Commission did not invite participants to the session. She informed the party that they could submit their arguments to the rapporteurs and their comments were passed on to the rapporteurs.

The Commission adopted the *amicus curiae* Brief on declaring a political party unconstitutional, previously approved by the Council for Democratic Elections (CDL-AD(2022)051).

14.2 Draft joint opinion on the follow-up to the joint opinion on the draft law on the Supreme Court of Justice of Moldova

Mr Gaspar expressed appreciation for the efforts made by the Moldovan authorities to implement the recommendations of the Venice Commission and presented those that can be considered as followed. Notably, he welcomed that that the possibility to transfer SCJ judges that passed the vetting to another court without their consent was removed from the draft. Regarding the new composition of Supreme Court, the new draft clearly states that 11 members of the Supreme Court of Justice shall be appointed from among judges and 9 members from among lawyers, thus providing for a majority of career judges. Also, the gradual approach for the reduction of the number of judges has been adopted through a transitional provision and the structure of the law has been redesigned to follow the Venice Commission's recommendation. Finally, the term "generalisation of judicial practice" has been removed from the draft law as recommended.

Mr Baramidze presented the partially followed recommendations. He mentioned that the recommendation that all decisions concerning the transfer, promotion and removal from office of judges should be taken by the Superior Council of Magistracy (SCM) has been followed. Nevertheless, the Venice Commission recommends revising the draft, so that it clearly stipulates that the report of the Evaluation Commission cannot in itself lead to the suspension of a judge. He underlined that the Venice Commission still recommends that the one-off and exceptional nature of the evaluation be better emphasised in the draft. Moreover, the Commission repeatedly recommended that the removal from office of a judge shall be an *ultima ratio.* As regards the disproportionate consequences of a negative evaluation, it is positive that the prohibited period of time for exercising the position has been reduced to seven years for judges, and five years for other positions. However, the Commission suggests removing all activities of a private nature from the list of banned professions, since they are beyond the public functions thus making the ban not proportional.

As regards the "application in the interest of the law", the Commission reiterates its recommendation to stipulate in the law that such judgments shall be binding only regarding other (future) judgements of the SCJ, and not for lower courts. The Venice Commission also welcomes the provision on adding the Ombudsman in the group of subjects entitled to request the SCJ to rule on the questions of law but notes however, that the representatives of various legal professions, still have no possibility to present their views. In the revised draft Law, the authorities made a new change regarding the failure to meet the integrity criteria by the candidate and the decision of the Evaluation Commission in this context. The "*serious doubts*" in the mentioned provision has been changed with the phrase *"reasonable doubts"*. The Commission recommends against this change as it may negatively affect and weaken the basis, the criteria and the proof of a negative judgment.

Ms Veronica Mihailov-Moraru, State Secretary in the Ministry of Justice, pointed out that this is one of the most important reforms for Moldova and is connected to the EU accession process of the Republic of Moldova. As regards the temporary character of the vetting process, the authorities open to examine other ways of strengthening the one-time effect of this reform and would highly welcome the support of the Venice Commission. As regards the ban period, she mentioned that it will be applied only for failing the vetting, i.e. for very serious ethical misconduct or if it was established that the judge has unjustified property. The authorities deem this measure proportionate with the legitimate aim pursued. She added that a vicious practice has already been created by the judiciary by transforming the bar into a "place of refuge" for compromised judges and prosecutors. As regards the alternative to the dismissal of a judge, she informed that they would adjust Art. 8 para. 2 c) of the Law no. 26/2022, to make it clear that minor financial irregularities may not result in the failure to pass the vetting and that in such cases the judge should not be dismissed. As concerns the binding effect of the decisions in the interest of law for the lower courts, she mentioned that such an effect cannot be ensured in practice. If the SCJ is legally bound by its own decisions, it will automatically mean that any lower court judgments will be quashed if contrary to the practice of the SCJ. It implicitly means that the mandatory judgments for the SCJ have indirect obligatory impact on lower courts as well. As regards the possibility for the Ombudsman and other subjects to present their opinion or amicus curiae, she mentioned that it is a translation issue and that in the Romanian version of the draft these subjects have a possibility presenting their views. As regards the suspension of the judge pending the decision on the vetting, she mentioned that according to the previous recommendation of the Venice Commission, the suspension takes place not through the Commission's report, but through the effect of the law (through the introduced amendments) as a temporary insurance measure, until the CSM examines the report. Regarding the non-binding nature of *guides/guidelines*, she informed that the draft law, or the informative note, can be adjusted accordingly.

The Commission adopted the Joint Follow-up Opinion of the Venice Commission and DGI to the Joint Opinion on the draft Law on the Supreme Court of Justice of the Republic of Moldova (CDL-AD(2022)049).

This *amicus curiae* brief project was prepared in the framework of the Quick Response Mechanism (QRM), co-funded by the European Union and the Council of Europe and implemented by the Council of Europe in their Partnership for Good Governance Phase II.

15. Serbia

15.1 The draft opinion on two bills implementing the constitutional amendments on the prosecution service and
15.3 Draft opinion on three revised draft laws implementing the constitutional amendments on the judiciary (follow-up to a previous opinion)

Mr Kuijer recalled that the request for an opinion on the five laws implementing constitutional amendments on the judiciary and the prosecution service had been submitted by the Minister of Justice on 12 September 2022. The implementing legislation was developed by the Ministry

following the constitutional amendments adopted at the referendum in February 2022. The first opinion deals with the two draft laws on the prosecution service.

Mr Kuijer praised the Minister's efforts in pursuing a constructive dialogue with the Venice Commission and with the relevant domestic stakeholders. In the process of dialogue with the rapporteurs, the Ministry made substantial changes to the original drafts which are to be welcomed. However, a truly successful reform requires further implementing measures.

There are no international standards regarding the need to set up a prosecutorial council but, when such a council is established, it needs to have a balanced composition. The shortlisting by the Judiciary Committee of the National Assembly for the lay component of the High Prosecutorial Council (the HPC) should not be politically homogenous. There were various solutions as to how to achieve that. The "worthiness" criteria for the candidates competing to become lay members of the HPC may be interpreted as implying the absence of a strong political affiliation. Candidates to the positions of lay members should not have political responsibilities or hold governmental positions and this ineligibility requirement may be extended to the spouses and relatives of the candidates. Such strengthened ineligibility requirement may create a "safety distance" between party politics and the lay members of the HPC. Allowing each member of the Judiciary Committee to propose one candidate is equally positive. Most importantly, the Government proposed that the shortlisting would be done by a qualified majority of the Judiciary Committee members to ensure cross-party support of the candidates.

Temporary transfers of prosecutors and mandatory instructions from higher prosecutors to the lower ones are normal features of any hierarchically organised system. However, NGOs met by the rapporteurs complained the abuse of these instruments. This allegation had been rejected by the authorities. Temporary transfers being used as a structural solution for filling vacancies was problematic and the proposal to extend the period of temporary assignment to three years was both positive (this makes those transferred less vulnerable) and negative (providing a "semi-permanent" solution). On mandatory instruction, the new mechanism of appeal by a special panel composed of prosecutors appointed by the HJC is an appropriate solution, but the criteria for overruling the mandatory instruction should be more precise. Parties to the proceedings should have access to the materials related to the mandatory instructions before the trial is concluded. The judge should decide which materials should be disclosed and when. In general, Serbian authorities approached the recommendations of the draft opinion in a very responsive way.

The opinion on the three revised draft laws implementing the constitutional amendments on the judiciary has been introduced by Ms Kiener and Mr Kuijer. Previous work of the Venice Commission on the judicial reform of Serbia, which culminated with the constitutional amendments 2022 and the package of laws implementing these amendments. Three laws on the judiciary have been analysed in the opinion adopted at the October Plenary Session. Following the October opinion, the Ministry of Justice had revised the three drafts and requested a follow-up opinion, which was limited in scope and prepared without a country visit and within a very short timeframe. The follow-up opinion was amended in light of the explanations provided by the authorities.

The three revised draft laws are a significant step forward for the reform of the judiciary. A considerable part of the earlier recommendations regarding the draft law on the organisation of the courts has been followed or partially followed. In particular, the revised drafts were supplemented by general principles delimiting the Ministry's and the presidents' powers of court administration. The notion of "undue influence" was defined more narrowly. It is important that the clarifications provided by the Ministry are reproduced either in the draft law or in the explanatory memorandum thereto.

The revised draft law on Judges and the revised draft law on the High Judicial Council (the HJC) have been amended to follow the recommendations of the October opinion. To address the concerns expressed by the Venice Commission, the problem of a politically homogenous lay component of the HJC would be dealt in a similar manner as in respect of the HPC – by introducing the requirement of a qualified majority vote in the Judiciary Committee. Most of the

recommendations regarding the appointment of lay judges, reducing the list of disciplinary offences, excluding liability for structural deficiencies, specifying that performance evaluations will not concern substantive decisions of the judge, etc., have been addressed. The interrelation between the disciplinary and dismissal proceedings remained unclear, despite some additions to the revised text. The decision-making process within the HJC should be described with more precision. The Minister explained the meaning of certain provisions; those explanations should be developed further in the draft laws or at least in the explanatory memorandum.

Ms Maja Popović, the Minister of Justice of Serbia, thanked the Venice Commission for its continuous support for the judicial reform in Serbia in the past years. The development of the five laws is a key step in the European integration process of Serbia. The preparation process of the five draft laws has been transparent and inclusive. The Ministry will continue to involve all the relevant domestic stakeholders in the finalisation of the five drafts. The Minister enumerated the recommendations which would be implemented in response to the recommendations of the Venice Commission: joint adoption of the Court's Rules of Procedure, and a new procedure of appealing against the mandatory instructions of the higher prosecutors (by a five-member panel composed of prosecutors appointed by the HPC). The power of the Ministry vis-à-vis the non-judicial and non-prosecutorial staff would be limited by a special law, the supervisory powers of the court presidents would not interfere with the substantive decisions of the individual judges, the concept of "undue influence" would be narrowed down, the Ministry would not nominate candidates to the positions of lay judges, the list of disciplinary offences would be reduced, the concept of "serious and repeated" disciplinary offence would be redefined, the provisions describing disciplinary/dismissal proceedings would be reviewed and clarified in order to avoid confusion between the different functions, the criteria for performance evaluations would be added to the law, and the shortlisting by the Judiciary Committee of the National Assembly would require a two-thirds majority vote of its members, with an anti-deadlock mechanism. Furthermore, non-participation in the work of the two Councils would constitute a reason for terminating the mandate of a member, ineligibility criteria for lay judges would be defined with more precision, and the composition of the Ethics Committee would be defined by the law. The Minister stressed that the Judiciary Committee would propose the candidates to the National Assembly not on the basis of their political affiliation but their professional experience. The Minister also stated that reducing the quorum for the decision-making in the councils may encourage corporatist behaviour. To conclude, the Minister thanked the Commission for giving the Serbian legislator a road-map for further steps in its judicial reform.

The Venice Commission adopted:

- **the opinion on two draft laws implementing the constitutional amendments on the prosecution service of Serbia (CDL-AD(2022)042), previously exampled by the Sub-Commissions on the Rule of Law and the Judiciary at the joint meeting on 15 December 2022, and**
- **the follow-up Opinion on three revised draft Laws implementing the constitutional amendments on the judiciary of Serbia (CDL-AD(2022)043).**

15.2 Opinion on the constitutional and legal framework governing the functioning of democratic institutions

Mr Sanchez Muñoz informed the Commission that the election observation reports had identified a number of shortcomings in the electoral law and electoral administration in Serbia. A broad legislative reform took place less than two months before the elections. Since the process was inclusive and consensual, and it improved the legal framework, such late amendments were exceptionally accepted, but this should be avoided in the future. One of the most problematic issues was the campaign imbalance; this revealed the need for an effective monitoring of the campaign, including for online communication. The guarantee of a level-playing field was also essential in the field of financing. The authorities should take the necessary measures, *inter alia,* to curtail voter intimidation, vote buying, and overcrowding of the polling stations. The opinion also recommended preservation of the neutral role of the President of the Republic in parliamentary elections. Moreover, it included more technical

recommendations on electoral dispute resolution, rerun of election and the criteria for determining the status of national minority. Eventually, it addressed the follow-up to the previous opinion on the legislation on referendums.

Ms Fitzgerald underlined that this opinion went beyond a normal electoral opinion by assessing not only the legislation but also the practice. She highlighted recommendations on the misuse of administrative resources, which imply thorough changes in legislation and practice, including a broad definition of the electoral process; on campaign financing: ceilings for donations being too high, the need for oversight mechanisms, and public funding that could not be spent because it was given too late; and on media: in practice, there was insufficient oversight when the public and most private media promoted the incumbent, the mandate of the monitoring bodies need to be strengthened, and the independence of the regulatory authority should be ensured for it to be more proactive.

Ms Elvira Kovács, Deputy Speaker of the National Assembly of Serbia, stated that the circumstances in which the new electoral law had been passed did not allow for the involvement of the Venice Commission at the drafting stage. The interparty dialogue, albeit late, had resulted in numerous new legal provisions, some of them proposed by the non-parliamentary opposition and generally approved by all parties even if some expressed doubts about the solutions reached. Several amendments implemented the comments by the electoral observation missions as well as the informal comments by ODIHR following the co-operation with this organisation formalised in 2019. The provisions on national minority representation had been made more effective but could be made more precise by requiring the parties to indicate exactly which minority they represent.

The Commission adopted the joint opinion of the Venice Commission and the OSCE/ODIHR on the constitutional and legal framework governing the functioning of democratic institutions – electoral law and electoral administration, previously approved by the Council for Democratic Elections (CDL-AD(2022)046).

16. Exchange of views with the President of the Constitutional Court of Türkiye

Mr Arslan, President of the Constitutional Court of Türkiye, presented the 2010 constitutional amendments introducing the constitutional complaint mechanism - a turning point providing for an effective remedy based on the rights-based approach. The Constitutional Court had delivered many violation judgments that resolved legal problems in different parts of the society. The Constitutional Court's case law sets up the standard of protecting the constitutionality of the rights in conformity with the ECtHR jurisprudence. Furthermore, the constitutional complaint mechanism has been recognised as an effective domestic remedy to be exhausted before lodging an application to the ECtHR. The Constitutional Court has also considered the reports and opinions of the Venice Commission. Therefore, the Venice Commission has significantly contributed to its case-law.

The huge number of cases was a problem for the Court. Currently, there are 100 000 pending applications to the Constitutional Court compared to 75 000 applications pending to the ECtHR. In order to manage the caseload, the Constitutional Court has adopted two effective means: (1) establishing an efficient filtering system for inadmissible applications and (2) adopting the so-called pilot judgment procedure – applicable in cases revealing systemic/structural problems which cause massive and repetitive violations (e.g., cases concerning the excessive lengths of the proceedings represent almost 50% of the pending applications, and the Court called for the introduction of a special legal remedy). In another pilot judgment, taking into account the opinions of the Venice Commission, the Constitutional Court held that blocking access to the Internet violated the freedom of expression and the press of the applicants. More recently, the Court identified structural problems in the appeal procedure concerning the suspension of the pronouncement of the judgment, known as 'HHGB'.

Mr Otty asked about the backlog of the Court, and how the decisions of the Court are implemented. Mr Arslan replied that the Court had adopted 65 000 decisions in 2022 (most of

them on inadmissibility) and that it was able to manage its caseload. With a few exceptions, almost all the violation judgments have been executed. With regards to the non-executed judgments, new complaints regarding new violations were lodged by the applicants to the Court. Then, these Judgments were executed as well.

Mr Newman pointed out the advantage of the common law system where courts of all levels can deal with constitutional questions. President Arslan replied that in Türkiye, ordinary courts can deal with questions of human rights violations according to Article 90 of the Constitution, which provides that in case of a conflict between international human rights law and domestic law, the former must prevail.

Ms Nussberger asked whether there was a prioritization policy for these cases. President Arslan pointed out that specific thematic cases were picked up, for example, those relating to human rights violations, and the Court delivers leading judgments to solve the repetitive cases. The ordinary courts would then follow these cases.

In response to Ms Bernoussi's questions on case-law on gender equality and the conflicts between the constitution and international law, Mr Arslan replied that there are a number of cases on gender equality, for example, the famous 2014 judgment concerning maiden surname which enabled married women to keep their maiden name, without the surname of her husband. If there is a conflict between the Constitutional provisions and the international human rights treaties, like the ECHR, the legislator usually amends the Constitution. For example, the death penalty was abolished as it was contrary to Article 2 of the ECHR.

17. Romania

Ms Suchocka informed the Commission that this opinion on the three then draft laws was requested by the Monitoring Committee of the Parliamentary Assembly, but that the Minister of Justice requested this to be treated as an urgent opinion. Therefore, the draft opinion could cover only some aspects of the three detailed laws, that had been adopted in the meantime. The opinion also related to the earlier opinion on the dismantling of the Section for the Investigation of Criminal Offences within the Judiciary and the present opinion regretted that the legislator had not followed those recommendations.

The three new Laws did not affect the powers and composition of the National Anticorruption Directorate and did not seem to interfere in its work, which was welcomed. In the laws, the opinion noted several improvements and found that the laws seem to be heading in the right direction overall.

Nonetheless, the opinion made several recommendations: introducing a competitive selection for the deputy court managers and the prosecution office managers; appointing high ranking prosecutors for longer periods and without the possibility of renewal; ensuring that the General Prosecutor is not able to bypass the prosecutorial hierarchy when s/he finds prosecutorial measures unlawful or unfounded and providing that the judicial police do not report on their activity to the Minister of Interior**.**

The Commission endorsed the Urgent Opinion on three Laws concerning the justice system, issued on 18 November 2022, pursuant to Article 14a of the Venice Commission's Rules of Procedure (CDL-AD(2022)045).

18. Ukraine

Ms Cartabia pointed out that the urgent opinion issued on 23 November 2022 had triggered a debate in Ukraine among some NGOs, and some questions were addressed to the Venice Commission due to a misunderstanding and misreading of the urgent opinion. In light of the present circumstances, it was necessary to clarify some points of the urgent opinion for it to be adopted as an ordinary opinion with these clarifications: (1) as to the powers of the Advisory

Group of Experts (the AGE), the urgent opinion which states that the AGE must have the power to screen the candidates on the ground of both moral qualities and professional competence and rank them from non-suitable to suitable and very suitable, appeared to have been misinterpreted and taken to mean that the appointing bodies, the President, the Parliament, and the Congress of Judges were given the possibility to choose even those candidates who had been ranked as non-suitable. On this point, the President of the Venice Commission had sent a letter to the Speaker of the Rada: *"In the commission's opinion, candidates who are judged by the AGE not to be suitable, should not be chosen by the appointing bodies".* (2) as to the modalities of the working of the AGE, which is composed of six members – " on a national quota and 3 on an international quota -, the urgent opinions insisted on the need to set up an appropriate anti-deadlock mechanism, should the four votes required for taking a decision not be reached, and indicated the increase of the AGE members to seven (the additional member being on the international quota) as a possibility. However, as no appropriate mechanism appeared to have been included in the adopted law, it was therefore proposed to recommend increasing the number of members from six to seven (with the seventh member on the international quota).

Mr Grabenwarter pointed out that these two elements were essentially only a clarification of the substance of the urgent opinion against the background of the discussion in Ukraine in the course of the legislative process, but in line with the 2018 Protocol on Urgent Opinions, the latter should be adopted as an ordinary opinion.

President Bazy Malaurie agreed that such a clarification, first in her letter to the Speaker and now in the opinion itself, was warranted in view of the discussion in Ukraine.

The Commission agreed.

The Commission adopted the Opinion on the draft law "On Amendments to Certain Legislative Acts of Ukraine on improving the procedure for the selection of candidates for the position of judge of the Constitutional Court of Ukraine on a Competitive Basis" (CDL-AD(2022)054), based on the urgent opinion CDL-PI(2022)046, issued on 23 November 2022.

19. Compilation sur la vérification de l'intégrité des juges et des procureurs

M. Mathieu indique que cette compilation comprend un aperçu approfondi de la doctrine de la Commission ; elle ne traite pas de la « lustration », soit des mesures prises lorsqu'un régime démocratique succède à un autre régime. La vérification de l'intégrité est par ailleurs à distinguer de l'examen des capacités professionnelles. Elle implique la recherche de l'équilibre entre l'indépendance du pouvoir judiciaire et la qualité de la justice rendue. Les principes à suivre sont, outre l'indépendance du pouvoir judicaire, la séparation des pouvoirs et la proportionnalité. La compilation insiste aussi sur les garanties de procédure et le droit de recours.

M. Mathieu informe en outre la Commission d'un courriel du service juridique de la Commission européenne portant à la connaissance de la Commission de Venise les travaux de la Commission européenne en la matière. Il suggère que la Commission poursuive sa réflexion sur les procédures disciplinaires et les cas dans lesquels évaluation très négative peut conduire à une procédure disciplinaire.

La Commission entérine la Compilation sur la vérification de l'intégrité des juges et des procureurs (CDL-PI(2022)051).

20. Information on conferences and seminars

The Commission was informed on the results and conclusions of:

- *The 19th European Conference of Electoral Management Bodies on "Artificial Intelligence and its potential impact on electoral processes", held in hybrid format in Strasbourg on 14 and 15 November 2022*

Mr Vargas Valdez informed the Commission that around 130 participants took part in the conference, including members of electoral management bodies, civil society, academics, practitioners, experts, and international organisations. The conference addressed the challenges of artificial intelligence (AI) and digital technologies in the electoral field. Four themes were addressed: (1) AI and fairness in electoral processes: there is a risk of abuse but AI can contribute to very vast media content; (2) the impact of AI on turnout and voter choice *vs.* data protection: while AI may increase voter turnout, the Council of Europe convention in the field should be applied; voters should give their consent to data processing, and anonymisation should be ensured; (3) AI *vs.* supervision and transparency of electoral processes: public actors have to decide if AI should be used in the electoral process and be involved in supervision; and (4) AI and harmful content: while AI can disseminate such content, it can also be used for supervision but humans should intervene at a certain stage – there is still much to do to ensure electoral integrity in this context.

- *16ème séminaire UniDem Med sur la transformation numérique de l'administration publique, organisé en format hybride à Rabat, Maroc, les 23 et 24 novembre 2022*

Mme Bernoussi présente les résultats du séminaire, ouvert par M. Buquicchio, organisé conjointement par la Commission de Venise et le ministère de la Transformation numérique et de la réforme de l'administration du Maroc. Le séminaire était l'occasion des rencontres de haut niveau avec les chercheurs en sciences administratives et gestion publique pour une administration performante accessible et proche des citoyens. La thématique a concerné la digitalisation de l'administration. La crise sanitaire a fortement poussé dans le sens de la dématérialisation des rapports sociaux et les relations entre administratifs, en matière du télétravail et d'éducation. Les conclusions du séminaire :
1. une prise de conscience quasi-généralisée de la nécessité de la légitimité de la dématérialisation. La centralité de l'usager dans le processus digital doit être le pivot de toute stratégie digitale.
2. Les défis sont nombreux en termes de fracture sociale (des écarts très importants entre les villes et la campagne ; les personnes âgées et les jeunes ; les personnes en situation d'handicap et les détenus), culture verticale, portage politique (obtenir la volonté politique au plus haut sommet de l'État et de convaincre les politiques parce qu'en général ils sont très loin de la digitalisation), alternatives et approches des droits de l'homme (mettre l'accent sur l'impact discriminant du numérique vis-à-vis des catégories vulnérables comme, par exemple, les migrants où les détenus).
3. Un nouveau lexique utilisé : « droit à la connexion » ; « droit à la déconnexion » ; « cloud souverain » ; « indice de happiness » ; « multicanal » ; « électronisme » ; « difficulté numérique » ; « e-proximité », etc. La différence entre le numérique et le digital : le numérique c'est la connotation technique qui consiste à rendre les informations accessibles à travers l'informatique. Lien vers les Recommandations.

- *Colloque de la magistrature-Gatineau, 26-28 October 2022*

M. Kuijer informe la Commission au sujet du Colloque organisé les 27 et 28 octobre à Gatineau (Québec, Canada) qui a réuni plusieurs centaines de juges francophones du Canada et les participants internationaux du Réseau francophone des conseils de la magistrature judiciaire. Le Colloque a examiné les défis modernes à l'indépendance de la magistrature à la lumière des principes de l'État de droit. La présentation de M. Kuijer concernait les défis à l'application de l'État de droit dans l'expérience de la Commission de Venise.

M. Newman fait deux observations : 1. La clause de dérogation découle de la Déclaration canadienne des droits de l'homme de 1960. C'était un compromis politique avec le principe de la souveraineté parlementaire et c'est très controversé sur la scène politique et juridique canadienne. 2. Un différend existe entre la Cour et le gouvernement du Québec à savoir qui a le dernier mot sur l'administration des effectifs (les congés pris par les juges, etc.) et cette tension sous-tendait aussi le Colloque avec l'idée d'inviter les représentants d'autres pays pour voir comment bien traiter de la séparation des pouvoirs lorsqu'il s'agit de ces questions.

- *6e Congrès de la Conférence des juridictions constitutionnelles africaines (Rabat du 22 - 24 novembre 2022)*

M. Buquicchio a ouvert la Conférence avec le Président de la Cour constitutionnelle du Royaume du Maroc et la Présidente de la Conférence des juridictions constitutionnelles d'Afrique et Présidente la Cour constitutionnelle d'Angola. Le 6e Congrès avait comme thème les « Cours Constitutionnelles Africaines et Droit International », qui était discuté d'un angle comparatif. Lors du congrès, il y a eu une passation de pouvoir de la présidence de la CJCA de la Cour constitutionnelle angolaise a la Cour constitutionnelle marocaine.

- *Colloque international « Le droit du citoyen d'accéder à la justice constitutionnelle à la lumière des systèmes comparés », Alger, 5-6 décembre 2022*

Lors de ce colloque, à l'occasion du 1er anniversaire de la Cour constitutionnelle algérienne qui a succédé à au Conseil constitutionnel, M. Buquicchio avait présenté un discours sur le rôle de la Commission de Venise promouvant l'accès individuel à la justice constitutionnelle. La nouvelle Cour constitutionnelle algérienne accepte des recours individuels suivant le modèle français de la question prioritaire de constitutionnalité (QPC).

- *20th meeting of the Joint Council on Constitutional Justice and mini-conference on "State responses to the COVID-19 crisis and their impact on constitutional justice - constitutional jurisprudence on emergency situations", to be held in Sofia, Bulgaria, on 24-25 April 2023*

M. Dürr rappelé que le Conseil mixte sur la justice constitutionnelles a deux composantes : 1. La Sous-commission sur la justice constitutionnelle et 2. Les agents de liaison nommées par les cours constitutionnelles des pays membres et observateurs. La réunion à Sofia était prévue déjà en 2021 mais elle a dû être reportée à cause du COVID. En 2021, il était juste possible de faire une réunion en ligne mais, en 2023, sur l'invitation de la Cour constitutionnelle bulgare, une réunion aura lieu à Sofia. Suite à la réunion formelle qui porte sur la publication du Bulletin de jurisprudence constitutionnelle, CODICES et des questions de coopération, y inclus la Conférence mondiale, le 2e jour est toujours consacré à une « mini-conférence ». Pour la réunion à Sofia le thème retenu est l'impact du COVID sur la jurisprudence des cours constitutionnelles. Les agents de liaison présentent la jurisprudence des cours constitutionnelles lors de cette mini-conférence. M. Dürr invite les membres de la Commission à participer à cet évènement.

21. Information on constitutional developments in observer countries

The Observer for Japan, Mr Masakazu Doi, Professor of Constitutional Law at Kyoto University informed the Commission of a case regarding the voting rights in the National Review for Judges of the Supreme Court (hereinafter "the National Review"), which was decided by the Supreme Court in an en banc review on 25 May 2022.

In Japan, the Chief Judge of the Supreme Court is appointed by the Emperor as designated by the Cabinet, and the other Supreme Court judges are appointed by the Cabinet. Article 79 §3 of the Japanese Constitution stipulates that the appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of members of the House of Representatives following their appointment and shall be reviewed every 10 years in the same manner. Paragraph 4 of the same Article states that when the majority of the voters favour the dismissal of a judge, he or she shall be dismissed. However, over the past 75 years since the establishment of the Supreme Court, no judge of the Supreme Court has been removed through

the National Review.

Although there exist questions of how appropriate and effective this National Review is, the constitutional issue in the Court decision in 2022 focuses on the issue of the voting rights of the Japanese people residing overseas not being recognized in the National Review. Historically, it was only back in 1998 that the Voting Act recognized the voting rights of overseas Japanese for the first time. Initially, it provided voting rights only in the proportional representation elections of the Diet members, and not in constituency elections. In 2005, the Supreme Court ruled that the Voting Act of 1998 was unconstitutional. As a result, the National Diet has been admitting votes from overseas in all elections of the Diet members since 2006. However, even after this change, overseas Japanese are not allowed to vote in the National Review. This happened due to a technical reason: a sufficient voting period could not be ensured because the ballot papers could only be prepared and sent to consulates in foreign countries after the judges subject to the National Review were confirmed.

The Supreme Court of Japan unanimously declared that the law at issue violated the Constitution and ordered the government to compensate the plaintiff for damages. It stated that the Constitution, taking into account the constitutional review power of the Supreme Court, prescribes the power of the Japanese people to review Supreme Court judges as a sovereign right. Therefore, it held that equal opportunity to exercise the review power must be guaranteed for all Japanese nationals, and a restriction on such a right is permissible only if it is practically impossible or extremely difficult to guarantee fairness in the National Review without such a restriction. This case stands for the 11th Supreme Court decision which ruled that a statute violated the Constitution on its face (or as written). It is also the leading Supreme Court decision that makes it clear that the National Diet's failure to fulfil its legislative duty required by the Constitution shall be considered unconstitutional.

Following this ruling, the National Diet adopted a bill allowing voting from abroad in the National Review last month, and it immediately came into effect. The new law improves the ballot papers and the voting method as the Supreme Court pointed out.

It has been said that the Supreme Court of Japan is generally passive in ruling statutes as unconstitutional. However, since the judicial reform in the early 21st century, there has been a tendency for a more active judicial review. In particular, the Supreme Court has engaged in guaranteeing voting rights, which forms the basis of a democratic system, and in realizing equality under the law. More dialogues between the Supreme Court and the National Diet will probably be required in the near future, especially for realizing equal votes and legislating family laws. In this context, the European constitutional practice will be helpful for the Japanese Supreme Court.

22. Cooperation with other countries

*Palestine**

Mr Muhammad Shalalda, Minister of Justice of Palestine*, thanked the Venice Commission for the invitation and conveyed the greetings of the President and the Prime Minister of the State of Palestine*. The Minister provided the Commission with a brief overview of the legal and constitutional developments in Palestine*. The Declaration of Independence is the first Palestinian constitutional document as Palestinians see in this document a charter and the constitutional basis which defines and embodies the constitutional principles upon which the State of Palestine* should be based. These include, among others, full equality of rights and respect for religious and political beliefs and human dignity; a parliamentary democratic system based on rights and freedoms, such as the freedom of opinion and the freedom to form parties; commitment to the principles of peaceful coexistence; belief that the international and regional problems shall be settled by peaceful means in accordance with the Charter of the United Nations and the repudiation of the threat of force, violence or terrorism or their use against its or any other country's territorial integrity and political independence.

The Minister further informed the Commission of a committee established in 2010 to draft a Palestinian constitution; in 2014, the committee was reconfigured and tasked with drafting a constitution that takes into consideration the latest political developments, such as the recognition by the United Nations General Assembly of Palestine's* status as a non-member state. Thanks to such recognition, Palestine* acquired legal personality and ratified dozens of international treaties, among others, nine of the main UN human rights conventions.

The Minister concluded that the State of Palestine* endeavours and desires to build a democratic system based on legitimacy, human rights, and the principle of the rule of law. He called upon the international community to assume its legal and moral responsibilities in support of Palestine's* demands for self-determination and the establishment of an independent state.

Ms Granata-Menghini, explained that in 2008 the Committee of Ministers of the Council of Europe had authorised cooperation between the Venice Commission and Palestine*. Mr Dürr further highlighted Palestine's* cooperation with the Venice Commission in the framework of constitutional justice: the Constitutional Court of Palestine* is member of the Union of Arab Constitutional Courts and Councils and a full member of the World Conference of Constitutional Justice; it participated in the latter's 5th Congress in Indonesia in October 2022.

* This designation shall not be construed as a recognition of the State of Palestine and is without prejudice to the individual positions of the Council of Europe Member States on this issue.

Israel

Mr Buquicchio informed the Commission that draft amendments in preparation by the new government coalition in Israel present risks for the independence of the judiciary, in particular in relation to the competences of the Supreme Court. It appeared that the coalition intends to shield laws that contradict Israel's "Basic Laws," which constitute its constitution, from judicial review by the Supreme Court through an "override" clause.

In this situation, there are two possible actions which can support the Supreme Court of Israel: (1) adopting a declaration of support by the Commission itself and (2) activating the Santo Domingo mechanism of the World Conference of Constitutional Justice, which provides for statements in support of the Constitutional Courts that are members of the World Conference.

Mr Meridor emphasised the importance of the Supreme Court's role in interpreting the laws as Israel has a system of basic laws but does not have a formal written constitution.

23. Report of the meeting of the Sub-Commission on Working Methods (15 December 2022)

Mr Newman informed the Commission that the Sub-Commission had mainly addressed the follow-up to items 7, 8 and 10 of the Report on the evaluation of the Venice Commission. The common thread in examining these recommendations was determining how to maintain the integrity and role of the Commission. The discussions of the Sub-Commission addressed:

Recommendation 7: Revise the rules of procedure in respect to the appointment process of the members to help ensure the highest standard of independence and technical knowledge:

- an involvement of the Commission and/or the Secretariat in the selection process should not take place;
- Article 3a of the rules of procedures of the Commission on conflicts of interests should be made more precise;
- newly appointed members should be asked to sign a letter of acceptance committing themselves to be independent and impartial;
- rapporteurs should state that they have no conflict of interest, pursuant to Article 13.1;
- examples of possible conflicts of interests could be given *in the revised Article 3a;* and

- representatives of the executive branch of the government (those exerting political functions, e.g., acting ministers), should not work on opinions.

Recommendation 8: Review the working methods of the Venice Commission to formalise certain processes and procedures to ensure greater clarity and transparency while retaining a sufficient degree of flexibility:

- a Sub-Commission on working methods exists,
- the mandates of the President and the Vice-Presidents – the election procedure could be defined more in detail and the system of wise persons could be revised;
- the criteria for the choice of rapporteurs could be made clearer: substantive expertise, knowledge of the country, linguistic skills, political autonomy/sensitivity, and availability;
- hybrid meetings are more inclusive especially for non-European members but are difficult to envisage due to their high costs;
- concerning languages, the immediate focus should be on maintaining and promoting the use of French;
- on civil society, the possibility of mentioning them by name in the opinions was discussed, but the trend seems to weigh in favour of keeping the present practice.

Recommendation 10: Consider the development of an internal monitoring and evaluation framework to help increase internal insights on the extent of the Venice Commission's impact:

- an involvement of the Commission is possible but needs additional means as recognised by the Evaluation Report;
- priority should be on the opinions requested by the states;
- for internal use, it is suggested not to change the practice (follow-up information prepared by the Secretariat);
- this may include follow-up opinions but should be punctual and not constitute monitoring.

Concerning the joint opinions with ODIHR, having conclusions instead of an executive summary for all opinions was suggested. Apart from the conclusions, states were asked to pay due attention to the contents of the extensive part of the opinion.

The Commission took note of the conclusions of the Sub-Commission, which would be examined with a view to adoption at the next Plenary Session.

24. Report of the joint meeting of the Sub-Committees on the Rule of Law and on the Judiciary (15 December 2022)

Mr Dimitrov presented the discussion regarding three sets of opinions on Armenia, Montenegro and Serbia. As to Armenia and Montenegro, it is useful to refer to an issue concerning the fact that at first sight there might seem to be conflicting recommendations in the two opinions. This concerns the point regarding the role of ethics commissions in initiating disciplinary procedures. The situation in the two opinions is however different because the role of these two bodies, in Armenia and Montenegro, and the respective legislation are different in the two countries. The merit of the Venice Commission is that it is able to address individual cases and, although referring to the same principles and standards, to provide advice on the individual circumstances which may vary from one case to another on the same country.

25. Report of the meeting of the Democratic Elections Council (15 December 2022)

The chair of the meeting, Mr Dickson, Chairman of the Congress Monitoring Committee, reminded the Commission that the joint opinion of the Venice Commission and OSCE/ODIHR on the draft amendments to the Election Code and the Law on Political Associations of Citizens of Georgia, the *amicus curiae* Brief on declaring a political party unconstitutional in the Republic of Moldova and the joint opinion of the Venice Commission and OSCE/ODIHR on the constitutional and legal framework governing the functioning of democratic institutions in Serbia were dealt with items 11, 14 and 15 above.

Mr Dickson referred to the activities of the Congress in the field of elections, including the upcoming mission to Berlin where the elections declared invalid by the Constitutional Court would be repeated in February 2023. He expressed deep concern for the Congress regarding the imprisonment of Mr Imamoglu, Mayor of Istanbul; the Congress will be dealing with this matter.

25a. Former Members' Association

The President of the Former Member's Association (AFM), Honorary President Peter Paczolay recalled that the AFM was established in 2014 at the initiative of Gianni Buquicchio. At the moment, the AFM has 82 members and counting. The AFM has held six meetings since its establishment; the last one in parallel to the current session, on 16 December 2022, kindly hosted by the Council of Europe office in Venice.

Several AFM members contributed as experts to the opinions and studies and represented the Commission at conferences or other activities. Individually, they helped raise awareness on the Venice Commission by writing articles, and through other means.

A major activity of the AFM was the conference in Lund in May 2019 on "The state of democracy thirty years after the fall of the iron curtain", which was a successful event prepared by the University of Lund, the AFM, and the Venice Commission. This event was a stock-taking exercise of the democratic developments in Central and Eastern Europe in the last three decades.

The AFM members offered to put forward proposals for studies on important topics that have not yet been addressed by the Commission. The proposals could be forwarded to the Venice Commission for assessment and followed up by a study or a conference organised jointly by the current and former members. Mr Paczolay expressed his gratitude to all the AFM members who made considerable financial efforts to attend the meeting at their own expense. The date of the 7th meeting to be held in 2023 will be decided at a later date.

26. Other business

There was no other business.

27. Dates of the next plenary sessions

134th	plenary session	10-11 March 2023
135th	plenary session	**9-10 June 2023**
		(please note that these dates have been changed!)
136th	plenary session	6-7 October 2023
137th	plenary session	15-16 December 2023