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Annual report of activities 2013

European Commission
for Democracy through Law

Council of Europe, 2014



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**European Commission
for Democracy through Law**

The Venice Commission of the Council of Europe

Annual report of activities 2013

Council of Europe, 2013

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**Working for democracy through law –
An overview of Venice Commission activities in 2013**

I. Working for democracy through law – An overview of Venice Commission activities in 2013

1. The Commission in 2013

Member states

Accession of new member states

On 15 April 2013 the United States of America became the 59th member state of the Venice Commission.

Voluntary contributions

In 2013 the Commission received voluntary contributions from the Government of Luxembourg and from the Italian Government (*Regione Veneto*) for the organisation of the plenary sessions. The Government of Romania contributed to the organisation of a conference on the constitutional process and for the participation of Arab countries in a conference on political parties.

The *Organisation Internationale de la Francophonie* continued to contribute to the translation into French of the Commission's *Bulletin on Constitutional Case-Law*.

Main activities

Key figures

The Commission adopted seven opinions on constitutional reforms and issues and 26 opinions on legislative texts or specific legal issues. It adopted four reports of a general character, published four *Bulletins on Constitutional Case-Law*, (co)organised 31 seminars and conferences, provided pre-electoral assistance to two countries, legal support to five election observation missions and comparative law elements to Constitutional Courts in 32 cases. 23 courts joined the

World Conference on Constitutional Justice, bringing the total number of members to 83.

Scientific Council

The Scientific Council prepared four thematic compilations of Venice Commission opinions and studies, in the fields of freedom of assembly and freedom of association. These compilations, which contain extracts from the Commission's opinions and studies structured thematically around keywords, are intended to serve as a reference to country representatives, researchers and experts who wish to familiarise themselves with the Venice Commission's "doctrine". They are available on the Commission's website and are regularly updated.

2. Democratic institutions and fundamental freedoms

Constitutional reforms

In 2013 the Commission was involved in an unusually high number of constitutional reform processes relating to very different countries and situations. Some of these opinions followed an earlier involvement of the Venice Commission; others broke new ground.

- For the first time the Commission adopted an opinion on the draft constitution of a country of the southern Mediterranean, Tunisia. This opinion was preceded by intense exchanges between Commission representatives and the National Constituent Assembly. The constitution finally adopted on 26 January 2014 largely reflects the Commission's recommendations and seems an

excellent basis for the further democratic development of this country.

- The Commission adopted an opinion on the draft new Constitution of Iceland. The subsequent decision of the Icelandic Parliament not to adopt the draft but to make it easier to amend the constitution is in line with the Commission's opinion.
- At the request of the Parliamentary Assembly, the Commission adopted an opinion on the balance of powers in the Constitution and legislation of Monaco.
- The Commission adopted a critical opinion on the Fourth Amendment to the Fundamental Law of Hungary. The subsequently adopted Fifth Amendment takes into account some of this criticism in relation to the ordinary courts but fell short of the recommendations concerning the Constitutional Court.
- The Commission contributed to the constitutional reform process in Romania. Its opinion on the draft amendments to the constitution was adopted in 2014.
- The Commission was involved in discussions to amend the Constitution of Bosnia and Herzegovina in order to implement the *Sejdic and Fincci* judgment of the European Court of Human Rights. Unfortunately these discussions brought no result.
- The Commission worked together with the Constitutional Assembly of Ukraine and adopted two opinions on proposals to reform the chapter of the constitution on the judiciary. On the basis of its opinions a new draft was prepared which, if adopted, would be a good basis for strengthening the independence of the judiciary in this country.
- In Montenegro, in co-operation with the Commission, amendments to the chapter of the constitution on the judiciary were prepared to comply with recommendations from earlier

Commission opinions. The Commission adopted a positive opinion on the draft which was then adopted by parliament.

- The Commission adopted an opinion on draft proposals to amend the Constitution of Georgia, focusing on the procedure for amending the constitution. In line with the recommendation by the Commission, the proposal to make it easier to amend the constitution was not implemented. However, a comprehensive reform of the constitution will be carried out in 2014 in close co-operation with the Commission.
- In November a Commission delegation held meetings with the Chair of the Committee of 50 preparing the new Constitution of Egypt, Mr Amr Moussa, as well as with members of and advisers to this committee.
- In Armenia a constitutional reform process was launched and the Venice Commission will co-operate closely with the Commission on constitutional amendments in 2014.

3. Functioning of democratic institutions and the protection of fundamental rights

The Commission adopted a considerable number of opinions on fundamental rights issues. The main emphasis was on political rights (freedom of assembly in the Russian Federation, prohibition of communist symbols in the Republic of Moldova, prohibition of so-called “propaganda of homosexuality” in the Republic of Moldova, the Russian Federation and Ukraine, freedom of association in Egypt and Kyrgyzstan, provisions on defamation in Azerbaijan and Italy). Three of the opinions (concerning compensation for non-pecuniary damage in Armenia and defamation in Azerbaijan and Italy) were linked to the taking of general measures for

the execution of judgments of the European Court of Human Rights. Opinions were also adopted on human rights protection institutions in Tunisia and a non-discrimination issue in Bosnia and Herzegovina.

In addition, a number of informal opinions were prepared at the request of the authorities of Egypt, Kazakhstan, Morocco, Tajikistan and Tunisia. While this shows that non-European states often have a preference for less formal forms of co-operation, it seems remarkable that Tunisia asked for an official opinion of the Commission on the draft constitution and Egypt on the draft new NGO law.

As regards the functioning of democratic institutions, the Commission adopted an opinion on the Amnesty Law of Georgia and reports on the relationship between political and criminal ministerial responsibility and on the influence of extra-institutional actors (lobbying) in a democratic society. It also provided an opinion on the amendments to the Georgian law on occupied territories.

4. Constitutional and ordinary justice

Strengthening constitutional justice

In 2013 the President of the Commission made a statement defending the independence of the Constitutional Court of Moldova against a law that required the “trust” of parliament in the court, thereby effectively providing a vote of confidence in the court.

The Commission provided further *amicus curiae* briefs for the Constitutional Court of Moldova (on communist symbols and on judicial immunity) and for the Constitutional Court of Bosnia and Herzegovina (on possible discrimination in the selection of the Republic Day of the Republika Srpska).

The Venice Commission’s Joint Council on Constitutional Justice guided the work of the Commission in the field

of constitutional justice. The Centre on Constitutional Justice published three regular issues of the *Bulletin on Constitutional Case-Law* together with a special issue on the leading case law of the Court of Justice of the European Union.

The CODICES database became the focal point for the work not only of the Joint Council but also the World Conference on Constitutional Justice, making available some 8 000 constitutional judgments for mutual inspiration as a common basis for the dialogue of judges in Europe and beyond.

The Commission’s Venice Forum dealt effectively with 32 comparative law research requests from Constitutional Courts and equivalent bodies, covering questions ranging from the obligation to vote, tax issues related to the freedom of the press, social security benefits, prohibition on donating blood, to criminal proceedings against judges.

The Commission co-organised or participated in conferences and seminars in Albania, Armenia, Ecuador, Georgia, Jordan, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Morocco, Peru, Romania and Slovakia. The topics covered issues such as preliminary requests to the Constitutional Court, individual access to the Constitutional Court, discretion and the rule of law and children’s rights.

World Conference on Constitutional Justice

The year 2013 saw a marked increase in the number of Constitutional Courts, Constitutional Councils and Supreme Courts joining the World Conference. At the end of 2013, the conference had 83 members from all continents. At its meeting in June 2013 in Venice, the Bureau of the World Conference decided on the topic of the 3rd congress, “Constitutional Justice and Social Integration”, to be held in Seoul, Republic of Korea in 2014. The Bureau also decided to add the independence of the Constitutional Courts as a recurrent topic of the conference.

The expansion of the World Conference also led to a large increase in contributions to the CODICES database of the Venice Commission, which provides a permanent link between the member courts, in addition to the Venice Forum Newsgroup.

Ordinary judiciary

The need to ensure the independence of the judiciary and the functioning of the judicial system in the interests of society continues to be an important source of activities for the Venice Commission. In 2013, the Commission prepared 12 opinions relating to the ordinary judiciary for Bosnia and Herzegovina, Georgia, Moldova, Serbia, Tajikistan and Ukraine. The main issues raised in these opinions related to the appointment and discipline of judges, the composition and mandate of judicial councils, and the powers of prosecutors. Appraisal systems for judges, judicial ethics, and their relationship to the system of discipline are also recurrent topics.

Opinions for Georgia related to the specific problems of amnesty and miscarriages of justice.

The general problem of corruption in the judiciary was at the centre of the *amicus curiae* brief for the Constitutional Court of Moldova on judicial immunity. The Commission came to the conclusion that, while such immunity exists in a number of countries, there is no common European standard requiring it.

5. Elections, referendums and political parties

In 2013, the Commission adopted six opinions in the field of elections and political parties, as well as a report on the misuse of administrative resources during electoral processes. At the same time the Commission, through the Council for Democratic Elections, continued the

drafting of other documents of a general nature; a corpus of important guidelines in the field is being further enriched.

Regarding electoral legislation, even if improvements are desirable, even necessary, in several states, the problems to be solved increasingly concern the implementation rather than the content of the legislation. During 2013 the Commission therefore continued to assist its Council of Europe member states in the implementation of international standards in the electoral field, while developing further its co-operation with non-European countries, especially in Latin America and the Mediterranean Basin.

Electoral legislation and practice

The Commission adopted opinions on laws in force and draft electoral laws in “the former Yugoslav Republic of Macedonia”, Ukraine and Mexico. Most of the opinions on electoral matters were drawn up together with the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

Moreover, the Commission adopted a report on the misuse of administrative resources during electoral processes. In addition, the Commission organised long-term assistance to the Central Electoral Commissions of Albania and Georgia.

The Venice Commission organised the 10th Conference of European Electoral Management bodies jointly with the Central Election Commission of Moldova in Chişinău in June 2013, as well as an international conference on the implementation of human rights treaties notably in the field of electoral rights, in Mexico. It also organised seminars on electoral issues in Armenia and Georgia. Several events on the ongoing electoral reform were co-organised by the Commission in Ukraine.

Finally, the Commission provided legal assistance to five electoral observation missions of the Parliamentary Assembly of the Council of Europe. The VOTA database of electoral legislation is now jointly managed by the Commission and the Electoral Tribunal of Mexico.

Political parties

The Commission adopted an opinion on the draft legislation on financing of political parties and election campaigns in the Republic of Moldova. In addition, the Commission organised the 3rd Intercultural Workshop on Democracy on the theme “Political parties – Key factors in the political development of democratic societies” in October 2013 in Bucharest, Romania (see Chapter V).

6. Sharing experience with non-European countries

Latin America

In 2013, the Venice Commission developed fruitful co-operation with Latin America through the Sub-Commission on Latin America, which met in 2013 for the first time outside Venice, in Mexico City. The Venice Commission organised two major conferences in co-operation with its partners in Peru and Mexico, with representation from over 20 countries from Latin America and Europe: a conference on individual access to constitutional justice in Arequipa, Peru, in May 2013, and an international seminar on the implementation of

human rights treaties at the domestic level in Mexico City in October 2013.

Central Asia

Since 2009, the Venice Commission has established very good co-operation with the national institutions of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, notably in the framework of the projects funded by the European Union. 2013 was marked by the involvement of Turkmenistan in co-operation with the Venice Commission. Another positive development concerned the growing willingness of the countries of the region to request formal opinions from the Venice Commission on their draft legislation (notably Kyrgyzstan and Tajikistan).

Mediterranean Basin

Co-operation with the states in the Mediterranean Basin continued throughout 2013. The need to reform the state institutions in accordance with international standards was confirmed by the implementation of projects with Morocco, Tunisia and Jordan. The Commission successfully co-operated with the National Constituent Assembly of Tunisia, by giving its opinion on the new constitution. The text adopted in January 2014 takes into account the recommendations made in the Venice Commission’s opinion. Multilateral activities involving various countries in the region showed the increased interest of other states in co-operating with the Venice Commission on a regular basis, in particular Egypt, Lebanon and Libya.

Democratic development of public institutions and respect for human rights

II. Democratic development of public institutions and respect for human rights¹

1. Country specific activities

Constitutional assistance

Georgia

Opinion on three draft constitutional laws amending two Constitutional Laws amending the Constitution of Georgia (CDL-AD(2013)029)

On 31 July 2013, the Georgian authorities requested the Venice Commission to provide an opinion on three draft constitutional laws amending respectively two constitutional laws amending the constitution.

The Constitution of Georgia, which was adopted on 24 August 1995, has been amended several times. These three draft laws were mostly intended to repeal amendments which had been adopted in 2010 and 2011 which had not yet entered into force but which should have entered into force “upon the oath taken by the newly elected President in October 2013”. One of the amendments, however, concerned an article of the constitution which was already in force (requirements related to citizenship for certain public functions) but which did not raise any legal objection.

The opinion addressed in particular the suppression of the so-called “question of confidence” and the procedure of approval of the state budget by the parliament.

However, the reform of the procedure for amending the constitution was the most controversial. While the constitution in force at that time required one vote with a

majority of two-thirds of the total number of the members of parliament, under the proposed amendment, two votes held at an interval of at least three months with a majority of three-quarters of the total number of the members of parliament would be required.

The proposed amendments repealed both the reflection period of at least three months between the two votes and the need to achieve a three-quarters majority for the adoption of a constitutional reform and to reject the president’s remarks opposing the reform.

The opinion stressed that, when it comes to constitutional amendment, the challenge is to balance the requirements of rigidity and flexibility; at the same time, the constitution cannot be amended in conjunction with every change in the political situation in the country or after the formation of a new parliamentary majority. The Commission had previously expressed the view that in Georgia the system of a single vote by a two-thirds majority of the total number of MPs was insufficiently protective of the constitution and had considered the introduction of a double vote separated by a period of three months as a step forward in this direction. As the proposed amendment was equivalent to a return to the pre-2010 system, it called for the same reservations.

The proposed amendments to the constitutional amendment procedure had not been adopted and therefore the amendments making constitutional amendments more difficult entered into force following the presidential elections.

The opinion was adopted at the October 2013 session.

1. The full text of all adopted opinions can be found on the website www.venice.coe.int.

Iceland

Opinion on the Constitutional Bill for a new Constitution for the Republic of Iceland (CDL-AD(2013)010)

This opinion was requested by the Chair of the Constitutional and Supervisory Committee of the Parliament of Iceland.

The bill reflected an option for a strong parliamentary regime associated with a complex set of mechanisms aimed at enabling an increased direct participation of citizens in decision making. However, while in itself such a model might be deemed suitable to the specific context in Iceland, its translation in legal and constitutional terms raised certain concerns. Numerous provisions were too vague and broad, entailing the risk of serious difficulties of interpretation and application.

Furthermore, in the Commission's view, the complex institutional system proposed by the bill appeared too complicated and marked by lack of consistency, both as regards the powers, the interrelations and the balance between the main institutions – parliament, government and president – and the mechanisms of direct participation that it introduced. A careful review of the relevant constitutional provisions, both from a legal and political perspective, was recommended by the Commission. Similar recommendations had been formulated in relation to the proposed electoral system, which too was excessively complicated.

According to the Commission, the human rights chapter of the bill, introducing guarantees for a wide range of fundamental rights and freedoms, including socio-economic rights and “third generation” rights, also needed clarification, as did the immovability of judges and the independence of prosecutors, the transfer of state powers and the place of international norms in the domestic legal system.

As a follow-up to this opinion, a simplified procedure for constitutional revision was adopted, requiring, in line with the suggestion of the Venice Commission, the involvement of one parliament only, followed by approval by referendum, instead of – as was previously required for any constitutional amendment – adoption by two successive parliaments. The revision of the constitution reportedly remains on the agenda of the Icelandic authorities.

The opinion was adopted at the March 2013 session.

Monaco

Opinion on the balance of powers in the Constitution and the legislation of the Principality of Monaco (CDL-AD(2013)018)

On 19 December 2012, the President of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe requested the opinion of the Venice Commission on the Constitution of Monaco (CDL-REF(2013)021) “in order to examine more in particular the compatibility with the democratic standards of the constitutional provisions concerning the National Council, taking into account the specificities of Monaco”.

The Commission's opinion pointed out that the Constitution of Monaco is a granted charter which departs from the pattern of other contemporary European monarchies. Apart from the constitution itself and other normative texts, the Commission looked at how practices and public life work in reality; its opinion takes into account, among other things, the particularities of Monaco.

The positive points of the Monegasque system were highlighted: in particular the existence of a Supreme Tribunal, the consociate functioning of the institutions, the consensual climate which reigns in Monaco, as well as other positive practices not contained in the constitution. The

opinion underlined, however, the excessive prominence of the Prince in the executive and the legislative branches – although he is not an elected official, he is able to block the adoption of a law – and the absence of countersigning by a minister who should bear the responsibility, and pointed out that it is important to enshrine in the constitution the democratic principles which have come to be accepted in the current political life of Monaco. Finally, the Venice Commission recommended the following reforms: defining more clearly the spheres of legislation and regulations or even amending the rules on constitutional amendment.

More generally, the opinion called on Monaco to adopt a new law on the organisation and independent functioning of the National Council, so as to reflect the changes to the constitution in 2002 which brought about significant, necessary and welcome democratic developments.

The opinion was adopted at the June 2013 session.

Assistance in the process of constitutional revision

Romania

Follow-up to the Opinion on the compatibility with constitutional principles and the rule of law of actions taken by the Government and the Parliament of Romania in respect of other state institutions and to the Opinion on the Government Emergency Ordinance on amendment to the Law No. 47/1992 regarding the Organisation and Functioning of the Constitutional Court and on the Government Emergency Ordinance on amending and completing the Law No. 3/2000 regarding the Organisation of a referendum (CDL-AD(2012)026)

On 25 March 2013, the Prime Minister of Romania, Mr Victor Ponta, in pursuance of the dialogue started in 2012, invited the Commission to assist Romania in the

process of amending the Romanian Constitution. In this process, a series of exchanges with the various stakeholders involved took place in 2013. In May 2013, the Commission participated in a round table organised by the Constitutional Forum of the civil society, an ad hoc structure set up to gather, discuss and structure the civil society proposals for the revision of the constitution and subsequently to forward this input to the Constitutional Committee of the Parliament.

The Commission held a meeting in Bucharest on 4 and 5 July 2013 with the representatives of the Parliamentary Commission of Romania for the revision of the constitution and the main political forces. On this occasion, it was agreed that a revised draft law for the revision of the constitution, taking into account the recommendations of the Venice Commission's experts, would be submitted to the Venice Commission for assessment prior to its adoption.

Legislative assistance

Azerbaijan

Opinion on the legislation pertaining to the protection against defamation (CDL-AD (2013)024)

The Presidential Administration of the Republic of Azerbaijan requested the Commission's assistance in drafting a law on defamation, as part of the National Programme for Action to Raise the Effectiveness of the Protection of Human Rights and Freedoms and of the execution of two judgments of the European Court of Human Rights against Azerbaijan, in which the Court found violations by Azerbaijan of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.²

2. *Mahmudov and Agazade v. Azerbaijan*, Application No. 35877/04, Judgment of 18 December 2008 and *Fatullayev v. Azerbaijan*, Application No. 40984/07, Judgment of 22 April 2010.

The Commission, when adopting the opinion at its October 2013 session, noted that in spite of the rapporteurs' preliminary recommendations following their visit to Baku in April 2013, no measures had been taken to address the shortcomings identified in the draft civil law on defamation submitted to it. Furthermore, in spite of the authorities' commitment to work towards the decriminalisation of defamation in co-operation with the Commission, no progress had been made in this direction. As stressed by the opinion, defamation remained associated with excessively high criminal sanctions, including imprisonment. Its scope had even been widened to online expressions, without any prior information or consultation with the Commission. This is particularly problematic in light of the extremely difficult environment in which journalists and the media operate in Azerbaijan.

In the Commission's view, while representing a first step in devising comprehensive civil legislation in the area of defamation, the draft law on the protection against defamation was, in its current form, in many aspects not in line with the ECHR nor with the Strasbourg case law on freedom of expression.

Follow-up to the Joint Opinion on the Law on Freedom of Religious Belief (CDL-AD(2012)022)

On 15 February 2013, a series of amendments to the Code of Administrative Offences, the Law on Grants, the Law on Freedom of Religion and the Law on Non-Governmental Organisations was passed by the national parliament and entered into force in March 2013. Unfortunately, the amendments were at odds with the Commission's recommendations, including those on the law on freedom of religion.

On 22 February 2013, the Parliament of Azerbaijan adopted amendments to the Law on Freedom of Religious Belief according to which all religious materials, such

as books, video and audio tapes, and discs, can be sold only if they are specifically marked to show that they are authorised for sale in the country. The new regulation also states that all religious materials should be sold only in specially designated stores.

These amendments are clearly at odds with the text and the spirit of the recommendations of the joint opinion of the Commission and the OSCE/ODIHR, which invited the authorities to "remove undue restrictions on the rights of individuals and religious groups to produce, import, export, and freely disseminate, and sell religious literature, items and other informative materials" in order to comply with international standards.

Egypt

Interim Opinion on the draft law on civic work organisations of Egypt (CDL-AD(2013)023)

This opinion, prepared at the request of the Presidency of Egypt, was adopted at the June 2013 session.

In the Commission's view, the new draft law was definitely an improvement compared with previous draft laws on civic work entities and contained considerable positive features. The Venice Commission welcomed in particular that the registration of NGOs was possible through a simple notification accompanied by the necessary documents, that the registration procedure was reasonable both in terms of timing and substance, that the refusal of registration was limited to very specific circumstances and should be decided by a court, that all decisions by competent authorities should provide reasons and were subject to judicial review. The Venice Commission also welcomed the fact that the NGOs were given an extensive list of privileges and an unrestricted possibility to receive funds and donations in kind from Egyptian natural and legal persons, residing within Egypt or abroad and from resident foreigners or foreign non-governmental organisations licensed to work in Egypt.

Despite this positive evaluation, the opinion raised a number of issues of concern with regard to the severe standpoint of the draft law in respect of foreign NGOs. The Commission considered in particular that in no instance should monitoring of and prior authorisation for activities of foreign NGOs which have obtained a licence to operate in the country be required, that the need for prior authorisation for fund-raising should be removed and that in no instance should prior authorisation for receiving foreign funds be required. Moreover, the opinion recommended that, as a matter of urgency, the draft law should make explicit provision for the possibility to exercise the rights regulated in the draft law without acquiring legal personality and to abrogate the existing restrictive provisions on the criminalisation of unauthorised activities of NGOs.

Italy

Opinion on the legislation on defamation in Italy (CDL-AD(2013)038)

At its December 2013 session the Venice Commission adopted, at the request of the Parliamentary Assembly (Resolution 1920(2013) on the state of media freedom in Europe), an opinion on “whether the Italian laws on defamation are in line with Article 10 of the European Convention on Human Rights”.

In its opinion, the Venice Commission considered that the new bill amending the Italian legislation on defamation was a welcome effort to improve, modernise and bring the Italian legal framework pertaining to defamation into conformity with the ECHR requirements. The Commission underlined that substantial improvements had been introduced concerning the system of sanctions. It commended in particular the abolition of the prison sanction for defamation, which was a significant step forward in line with the requirements of the case law of the European Court of Human Rights, and the limitation

of the use of criminal provisions by strengthening the right of reply and rectification.

The opinion recommended that the defence of truth, public interest and responsible journalism, already recognised by Italian case law, be explicitly introduced in Article 595 of the Criminal Code; the requirements of proportionality of sanctions and the criterion of the economic condition of a journalist be made more explicit in the defamation provisions; and the introduction of a temporary ban on the exercise of the journalistic profession for repeated defamation be reconsidered in view of its potentially chilling effect on investigative journalism.

The Commission emphasised that political debate, as well as fair and responsible criticism of public figures as part of the public interest, should enjoy the highest protection and welcomed the abolition of Article 595 paragraph 4 of the Criminal Code providing for increased sanctions for defamation targeting a political, administrative or judicial agency.

Kyrgyzstan

Joint interim Opinion with the OSCE/ODIHR on the draft law amending the Law on Non-Commercial Organisations and other legislative acts (CDL-AD(2013)030)

At the request of the OSCE Office in Bishkek, a joint interim opinion was prepared and adopted by the Venice Commission at its October 2013 session with the aim of contributing to the public discussion of the draft law scheduled to take place in November 2013 in Bishkek.

The draft law submitted for assessment was amending three laws, with the following main effects:

- obligations would be added (notably reporting ones) to all NGOs;
- a special legal status would be created for foreign NGOs established in Kyrgyzstan, which would be

deemed to be “foreign agents” when receiving funds from abroad and participating in “political activities”; foreign agents would be subject to a special registration procedure, to additional auditing obligations and to unscheduled searches;

- public authorities would be provided with increased powers to monitor NGOs and impose sanctions.

In the view of the Commission and the OSCE/ODIHR, the draft law raised serious issues of legality (particularly as concerns the definition of “political activity”). The necessity of such a special regime in a democratic society was also open to question. More generally, the opinion stressed the risk that the draft law, if adopted, would adversely affect the exercise of the right to freedom of association in Kyrgyzstan. The opinion recommended reconsideration of the draft law by the Kyrgyz authorities.

Russian Federation

Opinion on Federal Law No. 65-FZ of 8 June 2012 Amending Federal Law No. 54-FZ of 19 June 2004 on Assemblies, Meetings, Demonstrations, Marches and Picketing and the Code of Administrative Offences (CDL-AD(2013)003)

This opinion followed a previous opinion by the Commission on the Assembly Act of the Russian Federation, adopted in March 2012, which criticised the system of prior notification set out in the law as amounting, in effect, to a system of prior authorisation, the imposition of excessive responsibilities on the organisers and, more generally, the imposition of blanket restrictions on holding peaceful assemblies.

In June 2012, amendments to this law were adopted, which did not follow the Commission’s recommendations. The Monitoring Committee of the Parliamentary Assembly asked the Commission to assess these amendments, which had in the meantime also been brought

before the Constitutional Court of the Russian Federation. The court rendered its judgment on 14 February 2013.

In its opinion, adopted at the March 2013 session, the Commission examined the whole range of issues raised by the amendments and found that, notwithstanding the judgment of the Constitutional Court, several issues remained unresolved. In particular, the Commission found the following provisions to be at odds with international standards: the ban on organising public events by previously convicted individuals; the blanket prohibition on wearing masks during public assemblies; the limitations on picketing; the time prohibition; the limits to campaigning prior to “agreement” with the authorities; the specially designated places for public events; and the maximum amount of sanctions. In conclusion, the opinion found, while taking due note of the positive impact of the judgment of the Constitutional Court, that the amendments to the Assembly Act adopted in June 2012 represented a step backwards for the exercise of freedom of peaceful assembly in the Russian Federation.

Concerning more specific issues such as that of wearing masks, the Commission stressed that, even though other European countries prohibit concealing one’s identity during public events, the blanket nature of the prohibition in the Russian law raised issues of proportionality. More generally, in the Commission’s view, the manner of implementation of similar provisions may contribute to restricting their negative impact on the exercise of freedom of assembly.

Opinion on Federal law No. 7-FZ of 12 January 1996 on Non-profit Organisations of the Russian Federation, as amended on 11 February 2013 and on the Federal Law on Making Amendments to the Criminal Code of the Russian Federation and Article 151 of the Code of Criminal Procedure of the Russian Federation adopted on 23 October 2012

Following a request by the Parliamentary Assembly to assess the Russian legislation on NGOs, as amended,

and the legislation dealing with treason and espionage, the Commission's Rapporteurs visited Moscow in September 2013, to hold exchanges with the representatives of the concerned authorities, as well as the civil society. On 30 August 2013, the Human Rights Commissioner of the Russian Federation lodged an appeal against some provisions of the NGO Law before the Constitutional Court. A draft opinion will be prepared for adoption in 2014.

Tunisia

Opinion on the draft final Constitution of Tunisia (CDL-AD(2013)032)

By letter dated 3 June 2013, Mr Mustapha Ben Jaafar, President of the National Constituent Assembly of Tunisia, requested the Venice Commission's opinion on the draft final Constitution of Tunisia as soon as possible. The opinion CDL-AD(2013)032 contains comments from the rapporteurs on the draft Constitution of Tunisia finalised by the National Constituent Assembly of Tunisia (NCA) on 1 June 2013. These comments were sent to the NCA on 17 July as the new constitution should have been adopted during the summer. However, following the assassination on 25 July of the leader of the opposition, Mr Mohammed Brahmi, the NCA's work was suspended. The opinion CDL-AD(2013)032 was adopted at the Commission's October 2013 session; the constitution was only adopted in January 2014. The text of the new constitution reflects a large number of the Venice Commission's recommendations.

a. Islam's role

The draft constitution enshrines the principle of a civil state governed by law. Article 1 of the Constitution (like Article 1 of the Constitution of Bourguiba) states that Islam is the religion of "Tunisia". However, there

are tensions between the civilian character of the state (and the principles of plurality, impartiality and non-discrimination also set out) and the predominant place given to Islam. The state is the guarantor of religion (Article 6), but guarantees "freedom of conscience and belief and freedom of worship"; the state is the protector of that which is held sacred (Article 6), but ensures "the neutrality of mosques and places of worship with regard to any use for partisan purposes"; all citizens, male and female alike, shall enjoy equality before the law without any discrimination but the president must be of the Muslim faith (Article 73), the oath which members of parliament and the government take is exclusively religious and the president appoints and dismisses the mufti, which also creates a very close link between the state and Islam.

b. Restrictions on the exercise of fundamental rights; equality between men and women

The draft constitution enshrines the most fundamental rights recognised by international treaties, which is very positive. It contains on the one hand a general clause (Article 48 of the draft constitution) which stipulates the principle of legality and the principle that restrictions must not affect the essence of the right; on the other hand, the provisions relating to some rights also contain specific clauses, enabling restrictions.

There is nevertheless a serious gap, insofar as the draft fails to require that any interference must comply with the principle of proportionality and "necessity in a democratic society". In addition, the general clause contained in the Article 48 should be co-ordinated with the specific clauses relating to each right and freedom, based on international instruments for the protection of human rights.

Article 20 proclaims the equal rights and duties of citizens regardless of gender without discrimination. Article

45 on the other hand states equal opportunities between men and women to assume different responsibilities: this last clause should be abolished because it suggests that equality is limited.

c. The political system

The chosen political system is a parliamentary system with semi-presidential elements. The president is elected by direct suffrage in two rounds for five years (as is the parliament); no one may hold office for more than two terms (non-amendable principle, this is to be welcomed). In addition to his or her ceremonial duties, the president has three reserved areas: defence, foreign affairs and national security. The choice of the foreign and defence ministers must be made in consultation with the president and he/she must chair the meetings of the council of ministers in these areas. No act by the president is subject to ministerial countersignature.

The prime minister (PM) is the candidate of the party which has won the election. If within four months of the elections the PM does not obtain a vote of confidence, the president may decide to dissolve the parliament (the only case of dissolution available to the president). The role of the president in appointing the PM is closely regulated. However, if Tunisia were to experience numerous ministerial crises, the president would exert considerable influence. The PM determines the general policy. A motion of constructive censure, based on the German model, is provided for.

d. Judiciary

The draft constitution enshrines the principles of impartiality, fairness and accountability of judges in the performance of their duties as well as irremovability: this is to be welcomed. The immunity of judges, on the other hand, is too broad.

A High Judicial Council (HJC) has been introduced, which is very positive. However, the composition should be reviewed, as the number of members appointed is much higher (three-quarters) than the number of elected judges: this causes a problem with respect to the independence of the HJC.

The Constitutional Court (CC) has both a priori and a posteriori control, which is positive. However, referral to the CC should be expanded. A priori referral can only be exercised by the president, which does not make sense: a number of MPs and the PM should have this power. Control of laws amending the constitution can only be requested by the speaker of the parliament: that power should also be given to the opposition. There should also be a deadline set for the decision of the CC.

e. Constitutional bodies

The constitution should provide guarantees of independence for these bodies, in particular that their members are appointed with a qualified majority (especially the information body).

f. Local government

The draft constitution provides for the decentralisation of power; it does not explicitly provide for local self-government, but it is guaranteed in substance. This chapter is brief, which is acceptable, but the system of election of municipal and regional councils should be added, as well as the principle of delegation “by means of blocks of powers”.

g. Transitional provisions

The constitution enters into force progressively as and when the implementing laws are adopted. However, the draft lacks a timescale for adoption of these laws (including for the Constitutional Court and the High Judicial Council).

Joint Opinion on the Law No. 2008-37 of 16 June 2008 relating to the Higher Committee for Human Rights and Fundamental Freedoms of the Republic of Tunisia (CDL-AD(2013)019)

The opinion, adopted at the June 2013 session at the request of the Tunisian Ministry of Human Rights and Transitional Justice, stressed the importance of establishing an effective institution for the protection of human rights as part of the reform process in Tunisia and welcomed the fact that a national institution for human rights had been established as a key constitutional body by the draft constitution which was under discussion by the National Constituent Assembly. The opinion made several recommendations concerning the mandate, the composition and the working procedures of the Higher Committee, with a view to ensuring full compliance of this institution with international standards, notably the United Nations Paris Principles.

The opinion recommended in particular that the committee be entitled to provide opinions, recommendations or reports on any matters related to the promotion of human rights, not only upon request by the competent public institutions or based on an individual complaint but also upon its own initiative. It also recommended including in the law the ability of the Higher Committee to make recommendations regarding amendments to and adoption of laws and administrative measures and the ratification of relevant international instruments.

The opinion underlined the need for the composition of the Higher Committee to reflect different segments of Tunisian society, professions and backgrounds as well as an equal representation of women and men and a balance of regions. It also recommended a broad, transparent and open selection and appointment process based on predetermined, objective and publicly available criteria, as well as provisions granting immunity from legal liability for the committee's members.

Moreover, a series of recommendations were made concerning in particular the mandate to conduct inquiries, including visiting places where people are deprived of their liberty and the confidentiality of correspondence between the committee and persons deprived of their liberty. In order to increase the independence of the committee, the opinion stressed the need to extend the term of office of its members, to ensure election of the chairman from among and by the members of the committee, that the members must not receive instructions from any public body or officials, and also that the dismissal and replacement of members of the committee should not be laid down in the internal regulation but rather in the text of the law.

This opinion was prepared jointly with the OSCE/ODIHR.

2. Transnational activities

Studies and reports

Prohibition of so-called “propaganda of homosexuality”

Following a request by the Committee on Equality and Non-Discrimination of the Parliamentary Assembly, the Venice Commission studied the compatibility with universal human rights standards of statutory provisions containing prohibitions of “propaganda of homosexuality” which had been adopted or proposed for adoption in the Republic of Moldova, the Russian Federation and Ukraine.

This opinion (CDL-AD(2013)022), adopted at the June 2013 session, underlined that the statutory provisions were problematic from the perspective of the applicable standards, in particular the European Convention on Human Rights.

It stressed that the provisions under consideration were not formulated with sufficient precision and that the terms used therein, such as “propaganda”, “aggressive

propaganda”, “promotion”, etc. were too ambiguous to reach the standard of “foreseeability” as a requirement of the criteria “prescribed by law”. The opinion also pointed out that the domestic courts had failed to mitigate this ambiguity through consistent interpretations.

The opinion emphasised that the prohibitions under consideration were not limited to sexually explicit content or obscenities and that they were blanket restrictions aimed at legitimate expressions of sexual orientation; it further stressed that the justifications based on “public morality” and “protection of minors” for the said prohibitions failed to pass the essential necessity and proportionality tests as required by the ECHR.

It was also underlined that the prohibition of “homosexual propaganda”, as opposed to “heterosexual propaganda” amounted to discrimination on the basis of the content of speech about sexual orientation, because of the lack of any reasonable and objective criteria to justify the difference of treatment in the application of the right to freedom of expression and assembly.

Report on the “Role of extra-institutional actors in the democratic system”

This report, adopted at the March 2013 session (CDL-AD(2013)011) following a request by the Parliamentary Assembly, proposed a reflection, in the light of the democratic standards developed by Council of Europe texts and institutions, on the impact of lobbying activities – in terms of associated opportunities and risks – for the functioning of democratic institutions.

As a contribution to pluralism, extra-institutional actors might be regarded as a way of improving the functioning of the democratic system. However, activities of such actors aimed at influencing political decision making, were likely to raise concerns in terms of legitimacy,

representativeness, equality, transparency and accountability, which are fundamental principles of democracy.

Based on an assessment of the existing legal systems of lobbying regulation, the Commission provided an overview of possible strategies to strengthen, through regulatory measures, the democracy-supportive role of extra-institutional actors in a democratic society, and to counter the drawbacks, if not threats, to the democratic process that lobbying activities might sometimes entail.

Taking into account the conclusions of the Commission, the Committee of Ministers instructed, in November 2013, the European Committee on Legal Co-operation (CDCJ) to undertake a study on the feasibility of preparing a Council of Europe instrument on the legal regulation of lobbying activities in Council of Europe member states.

Report on children’s rights in constitutions

The report – the Venice Commission’s contribution to the Council of Europe Strategy for the Rights of the Child (2012-2015) – was launched on the initiative of the Commission, but also as a response to a request made by the Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly and aims at providing guidance on how children’s rights can be included in national constitutions with a view to promoting their effective implementation. Following its adoption in early 2014, it will be presented at the ministerial conference on “Growing with children’s rights”, on 27 and 28 March 2014, in Dubrovnik, Croatia.

Revision of the Joint guidelines on freedom of religion and beliefs and on freedom of peaceful assembly

In 2013, the Commission pursued its co-operation with the OSCE/ODHIR aimed at revising their Joint Guidelines on freedom of religion and beliefs and on

freedom of peaceful assembly, in the light of the most recent developments noted in the concerned fields.

Joint Guidelines by the Venice Commission and the OSCE/ODIHR on freedom of association

The Commission together with the OSCE/ODHIR launched a common project of preparing Joint guidelines on freedom of association. This implies taking stock of the legislation and practice in OSCE participating and Council of Europe member states; surveying international and regional norms and developing, based on a common understanding of the international norms, specific guidelines in this field. According to the envisaged timescale, the joint guidelines are to be completed and ready for adoption at the end of 2014.

Report on the "Relationship between political and criminal ministerial responsibility"

Following a request from the Committee of Legal Affairs and Human Rights of the Parliamentary Assembly, the Venice Commission drafted a report on the basis of a comparative approach. The report addressed the relationship between law and politics, more precisely between the political and criminal responsibility of ministers. There was no single European model and there were very few common European standards, mainly Articles 6 and 7 of the ECHR. For example, some countries had specific impeachment procedures while others did not. The report was of a general character but two concrete cases, concerning Iceland and Ukraine, pending before the European Court of Human Rights, were used as background.

The core issue was the line between legitimate and illegitimate political elements. The main message of the report was that criminal proceedings should not be used to penalise political mistakes and disagreements; political actions by ministers should be subject to procedures

for political responsibility. This should however not lead to ministers being exempt from any penal suits. For the rest, the Venice Commission did not make a choice between a specific procedure introducing some political elements and the use of ordinary criminal justice, but the political model was particularly vulnerable concerning the rule of law; it should preferably be reserved for criminal acts committed in the exercise of ministerial functions. Respect for Articles 6 and 7 of the ECHR is essential whatever the procedure. Concerning the substance, offences such as abuse of office, misuse of powers or excess of authority had to be interpreted in a very restrictive way, and additional criteria such as intent to personal gain should be required.

This report was adopted at the March 2013 session (CDL-AD(2013)001).

Report on the lifting of parliamentary immunities

Further to a request from the Secretary General of the Council of Europe, the Venice Commission is preparing a report on the lifting of parliamentary immunities in co-operation with an expert from the Group of States against Corruption (GRECO). This report is aimed at developing criteria and guidelines on the lifting of parliamentary immunity in order to avoid the misuse of immunity and selective and arbitrary decisions, and in order to ensure adequate transparency of the procedure.

On 3 October 2013, a delegation of the Romanian Parliament met representatives of the Venice Commission and GRECO in order to discuss legislation on parliamentary immunities in Romania and its conformity with international standards.

Implementation of international human rights treaties in national legislation

The Sub-Commission on Latin America had decided to launch a study on the implementation of international

human rights treaties in national legislation, with a special focus on Latin America and from a comparative point of view. For the activities held in 2013, see Chapter V.3.

Thematic compilations of Venice Commission opinions

Thematic compilations are intended to serve as a source of reference for drafters of constitutions and of legislation relating to the various topics dealt with by the Venice Commission in its work (such as freedom of peaceful

assembly and freedom of association), and for researchers and Venice Commission members, who are requested to prepare comments and opinions on such texts. The compilations are not static documents and will continue to be regularly updated with extracts of newly adopted opinions or reports/studies by the Venice Commission.

In 2013, two new thematic compilations were prepared: on Venice Commission opinions and reports concerning freedom of religion and beliefs (CDL(2013)042) and political parties (CDL(2013)045).

Constitutional justice and ordinary justice

1. Opinions and conferences/meetings⁴

Albania

In September 2013, the Minister of Justice of Albania requested the Venice Commission's assistance in the reform of the judiciary. This reform is intended to cover the whole judicial and prosecutorial system as well as the Constitutional Court.

On the occasion of the conference on "The constitution as an instrument of stability and development" (Tirana, Albania, 28-29 November 2013), a Venice Commission delegation met with several stakeholders in this reform process, which should lead to a series of opinions on various pieces of draft legislation in 2014 and in 2015.

Armenia

Conference on European legal standards and the scope of discretion of powers in Council of Europe member states

On 3 and 4 July 2013, within the framework of the chairmanship of Armenia of the Committee of Ministers of the Council of Europe and in co-operation with the Constitutional Court of Armenia and the European Court of Human Rights, the Venice Commission co-organised a conference on the topic "European Standards of Rule of Law and the Scope of Discretionary Powers in the member states of the Council of Europe", which was held in Yerevan, Armenia. The discussions focused on discretionary powers as a concept which has to be interpreted in conformity

3.. The full text of all adopted opinions can be found on the website www.venice.coe.int.

4. Information on activities in the field of constitutional justice and ordinary justice concerning Bolivia, Chile and Peru can be found in Chapter V.

with the rule of law. In a memorandum adopted at the conference (CDL-JU(2013)020), the participants identified procedural transparency and a coherent motivation of the decisions necessary to legitimise the exercise of discretion.

Bosnia and Herzegovina

Opinion on the draft law on the courts of Bosnia and Herzegovina (CDL-AD(2013)015)

On 17 April 2013, the Venice Commission received a request on the draft law on the courts from the Ministry of Justice of Bosnia and Herzegovina. This draft law foresaw the creation of a new High Court of Bosnia and Herzegovina to replace the appellate division of the Court of Bosnia and Herzegovina as a separate court of appeal. The opinion, adopted at its June 2013 session, welcomed this as a practical step in the right direction, but noted that there were a number of outstanding issues that needed to be addressed. These included ensuring that there was no overlapping with the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and that the creation of an appellate panel within the new high court be avoided, as this seemed to copy what had already been criticised in the structure of the Court of Bosnia and Herzegovina. In addition, providing for representation in the new high court of the constituent peoples and of others living in the territory of Bosnia and Herzegovina was a problematic issue in the judiciary, as the principle of independence and impartiality should prevail over considerations of ethnic representation.

The European Commission welcomed this opinion as an important contribution to the EU-Bosnia and Herzegovina Structured Dialogue on Justice, the aim of which was to ensure that the laws on the judiciary

in Bosnia and Herzegovina be harmonised in line with European standards.

On 12 July 2013, the Venice Commission took part in the Thematic Plenary Session on the Reform of the State Level Judiciary in Brussels, organised within the framework of the EU-Bosnia and Herzegovina Structured Dialogue on Justice, in which the opinion on the draft law on the courts of Bosnia and Herzegovina was discussed. The main recommendation of defining the jurisdiction of the State Court more clearly would be implemented. Criticism by the Commission that any reference to the constituent peoples quota was inappropriate in the context of the judiciary was supported by many representatives of the country's judiciary.

Ecuador

Seminar on the constitutional process and legitimacy of constitutional justice

The Venice Commission participated in a seminar on the topic “The constitutional process and legitimacy of constitutional justice”, which was held in Quito, Ecuador (6-8 November 2013).

Georgia

Opinion on the draft amendments to the organic law on courts of general jurisdiction of Georgia (CDL-AD(2013)007)

On 3 December 2012, the Permanent Representative of Georgia to the Council of Europe requested the Venice Commission's opinion on the amendments to the organic Law of Georgia on the courts of general jurisdiction.

The draft amendments covered three different points: media coverage of court proceedings, the composition of the High Judicial Council and the transitional provisions on the termination of functions of the current High Judicial Council of Georgia (HJC).

As concerns media coverage of court proceedings, while recognising that there are advantages to having audio or video recordings of court hearings, in particular in the Georgian context, the opinion, adopted at the March 2013 session, stressed that the draft amendments relating to media coverage should be more precise as it was doubtful that they met, as they stood, the criteria of the “quality of the law” required by the case law of the European Court of Human Rights.

Regarding the composition of the High Judicial Council, it was underlined that in important respects the amendments represented progress for the independence of the council: the President of Georgia no longer appointed members of the council; a secret ballot had been introduced for the election procedure; eight judges were elected by the judicial conference on a proposal from the judges themselves. The main point of contention was the ban on chairmen of courts and chambers from election in the High Judicial Council.

On the very controversial issue of termination of functions of the current High Judicial Council, the opinion stated that an important function of judicial councils was to shield judges from political influence. Allowing the complete renewal of the composition of a judicial council following parliamentary elections would be inconsistent with this important task.

Later on, the Commission was informed that, following a certain number of modifications, the amendments to the Law on Common Courts had been submitted to parliament, which adopted them on 1 May 2013 after overriding the presidential veto. In the part of the law concerning media coverage of court proceedings, several recommendations had been taken on board, notably concerning the power of courts to limit audio and video recording in order to protect the rights and the identity of victims and witnesses. As concerned the composition of the High Judicial Council (HJC), some

recommendations had not been followed: the law provided for a two-thirds majority for the elections of the parliamentary component of the HJC but added an anti-deadlock mechanism in respect of four members only; the adopted text gives competence to the new HJC over pending cases; the amendment which provided that upon enactment of the law “authority of the members of the High Judicial Council, except the chairman of the Supreme Court, was terminated” had not been deleted as recommended; however the law provided that a judge member whose mandate must be terminated upon enactment of the law, was authorised to be a candidate in the election to be held after the entry into force of the law. Three judges had made use of this right during the election which took place on 10 June 2013 and two of them were re-elected. All judge members had been elected. Some of the lay members were elected by parliament in 2013.

Opinion on the provisions relating to political prisoners in the Amnesty Law of Georgia (CDL-AD(2013)009)

On 19 December 2012, the President of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe requested an opinion on the draft amnesty law of Georgia.

The draft law was adopted in its third and final reading on 21 December 2012 by the parliament. On 19 December 2012 the parliament had adopted a resolution consisting of a list of names of individuals, considered as “political prisoners” according to Article 22 of the draft law and who, according to the draft law, had to be released. On 27 December, the president vetoed the draft law. However, on 28 December the parliament overrode the veto. The president refused to sign the bill into law and the chairman of the parliament signed it on 12 January 2013. On 13 January 2013, the persons whose names had been included in the list of political prisoners were released.

Therefore the law was already in force when the Venice Commission adopted its opinion at its March 2013 session.

In its opinion, the Venice Commission stressed that it was mindful of the reasons put forward for the adoption of these texts (i.e. the urgency to take immediate steps to end the imprisonment of persons for political reasons as was explained to the delegation during its visit; the preamble of the law also referred to a general “principle of humanity” and to particular circumstances in the country) and has taken note of the exceptional scope of the measure, “single, temporal and special”.

The Commission attempted to provide a legal analysis of the situation with a view to strengthening the rule of law: the Amnesty Law was analysed against the principle of separation of powers, and the rule of law principles of legality (including transparency), prohibition of arbitrariness, non-discrimination and equality before the law. It was not found to be in conformity with these principles.

However, the Commission acknowledged that it would be contrary to the principles of legal certainty and non-retroactivity of criminal law if the persons who had been released pursuant to this law were to be returned to prison. The Commission stressed that any future amnesty or mechanism to address claims of imprisonment for political reasons should comply with the rule of law principles and should involve the courts.

Joint Opinion on the draft law on the temporary state commission on miscarriages of justice of Georgia (CDL-AD(2013)013)

By a letter of 14 May 2013, the Minister of Justice of Georgia requested the Venice Commission and the Director General of Human Rights and Rule of Law of the Council of Europe to provide an opinion on the draft law on the temporary state commission on miscarriage of justice.

The preamble of the draft law states that “after the parliamentary election of 1 October 2012 thousands of Georgian citizens, foreigners or stateless persons have filed complaints to the executive authorities and Parliament of Georgia stating that in 2004-2012 they were unlawfully and/or unjustly convicted of criminal offences” and the draft law on the temporary state commission on miscarriages of justice was intended to provide a mechanism to determine the cases of these people.

In its opinion, adopted at its June 2013 session, the Venice Commission underlined that the very idea of a process of examination of a massive number of possible cases of miscarriage of justice by a non-judicial body, raised issues as regards the separation of powers and the independence of the judiciary as enshrined in the constitution.

It further underlined that the opinion did not take a position on whether there were in fact miscarriages of justice in Georgia nor on whether such miscarriages of justice were of a systemic nature requiring the creation of a special mechanism; it stressed that any decision on the determination of the criminal charges against plaintiffs having suffered a miscarriage of justice must be adopted by a court and that it is essential that no “chamber for miscarriage of justice” be created specially, in order to re-examine the cases sent back to the judiciary by the state commission.

A number of recommendations were made in the opinion aimed at clarifying certain provisions, in particular those concerning the temporal scope of the competence of the state commission, and at depoliticising – as far as possible – the state commission.

International conference on “Theoretical and practical aspects of reviewing the constitutionality of the constitutional norms”

On 29 and 30 June 2013, a delegation of the Venice Commission took part in an international conference on

the topic “Theoretical and practical aspects of reviewing the constitutionality of constitutional norms”, which was held in Batumi, Georgia and co-organised with the Constitutional Court of Georgia. The issue of the control of constitutional amendments by a Constitutional Court is addressed in a number of countries. While some courts can only review the procedure of adoption of constitutional amendments, others can also review their substance. In the latter case, an inner hierarchy must exist in the constitution, providing unamendable articles or general principles as a standard of review for the control of constitutional amendments. The discussions focused on these criteria and the legitimacy of such review.

Hungary

Opinion on the Fourth Amendment to the Fundamental Law of Hungary (CDL-AD(2013)012)

By a letter of 11 March 2013, the Secretary General of the Council of Europe requested an opinion by the Venice Commission on the compatibility of the Fourth Amendment to the Fundamental Law of Hungary with Council of Europe standards. On 13 March 2013, the Minister for Foreign Affairs of Hungary requested from the Venice Commission an opinion on the Fourth Amendment, with regard to the international commitments that derive from Hungary’s membership of the Council of Europe.

The opinion, adopted at the June 2013 session, stated that the Fourth Amendment itself brought about or perpetuated shortcomings in the constitutional system of Hungary. The main concerns related to the role of the Constitutional Court and to a lesser extent the ordinary judiciary. In the field of human rights in general, several issues were regulated in a manner that disregards earlier decisions by the Constitutional Court.

These constitutional amendments were found to be not only problematic because constitutional control

was blocked in a systematic way, but also in substance because these provisions contradicted principles of the Fundamental Law and European standards. The opinion criticised, in particular, vague provisions on the communist past; the absence of precise criteria for the recognition of churches and the absence of an effective legal remedy for these decisions, limitations on political advertising and vague provisions on the dignity of communities.

In the field of the judiciary, the opinion stated that the Fourth Amendment constitutionalised the overwhelming position of the President of the National Judicial Office.

However, the Venice Commission also welcomed the government's announcement on the removal of the system of transfer of cases and the abandoning of a special tax in cases of unexpected expenditure resulting from court decisions.

The opinion was most critical concerning the reduction of the role of the Constitutional Court. In particular, a series of provisions of the Fourth Amendment systematically raised issues to the constitutional level as a reaction to earlier decisions of the Constitutional Court, thus threatening the role of the Constitutional Court as the guardian of constitutionality and as a control body in the democratic system of checks and balances. Further problems relating to the Constitutional Court were the removal of the possibility for the court to base itself on its earlier case law and the shielding of potentially unconstitutional laws from constitutional review even when budgetary problems have subsided.

The opinion stated that, taken together, these measures amounted to a threat to constitutional justice and to the supremacy of the basic principles contained in the Fundamental Law of Hungary. The opinion concluded that the Fourth Amendment perpetuated the problematic position of the President of the National Judicial Office, seriously undermining the possibilities of constitutional

review in Hungary and endangering the constitutional system of checks and balances.

As a reaction to the opinion, the parliament adopted a Fifth Amendment, which removed several problems in the field of the ordinary judiciary, but which, apart from extending a procedural deadline, did not improve the role of the Constitutional Court.

Jordan

Seminar on preliminary requests before Constitutional Courts

On 27 November 2013, a seminar on preliminary requests before Constitutional Courts was organised by the Venice Commission in co-operation with the Constitutional Court of Jordan in Amman within the framework of the Joint Project with the European Union: Support to the Jordanian authorities in improving the quality and efficiency of the Jordanian justice system (see Chapter V.1).

Latvia

Conference on "Jurisdiction of the Constitutional Court: limits and possibilities of expansion"

On 26 and 27 September 2013, the Venice Commission co-organised a conference on the topic "Jurisdiction of the Constitutional Court: limits and possibilities for expansion", which was held in Riga, Latvia. This focused specifically on the possible extension of competences of the Constitutional Court of Latvia, notably on the possible introduction of a full constitutional complaint, as well as on increasing the role of the Constitutional Court in impeachment procedures and in referendums (notably to review citizens' legislative initiatives under Chapter V paragraphs 64 and 78 of the constitution).

Participants were informed that the Ministry of Justice of Latvia had created a working group to consider these

issues and to deal with suggestions to draft a preamble to the constitution, which should be submitted to the Venice Commission for an opinion.

Lithuania

International Conference on present tendencies of constitutional justice

On 5 September 2013, a conference was organised by the Constitutional Court of Lithuania in co-operation with the Venice Commission, on the topic “Present tendencies of Constitutional Justice”, which was held in Vilnius, Lithuania. The conference was an opportunity to exchange views on a variety of issues faced by Constitutional Courts. The Venice Commission’s contribution focused on the interaction between national constitutions and supranational legal orders in the context of constitutional pluralism and multilevel governance, as opposed to the more traditional and broader issue of interaction between public international law, EU law and national legal systems.

Republic of Moldova

Amicus curiae brief on the immunity of judges for the Constitutional Court of Moldova (CDL-AD(2013)008)

On 15 November 2012, the President of the Constitutional Court of Moldova requested the Venice Commission to provide an amicus curiae brief relating to the amendments introduced by Law No. 153 of 5 July 2012 to Article 19.4 and 19.5 (inviolability of judges) of Law No. 544-XIII of 20 July 1995 on the Status of Judges.

These amendments removed, *inter alia*, the need for consent for the initiation of certain criminal proceedings and for criminal liability, namely submitting the case to court against judges for crimes of passive corruption and of trafficking in influence as specified in the Criminal Code. The question before the Constitutional Court was

whether the amended law violated Article 116.1 on judicial independence of the constitution.

The opinion, adopted at the March 2013 session, welcomed the removal of the requirement of consent by the President of the Republic and by Parliament for bringing criminal proceedings against judges which improved judicial independence. The lifting of immunity by the Superior Council of Magistracy alone reduced the dependence of the judiciary on political organs.

The opinion pointed out that the fact that only the prosecutor general could initiate criminal proceedings against judges, was a safeguard against individuals bringing false accusations against judges. However, this safeguard could not shield the judge against false accusations from the prosecutor general and this could be used as a tool to make judges compliant with the prosecution’s wishes.

However, the Moldovan legislation did not seem to contradict international standards. While some states, particularly in eastern Europe, conferred a criminal inviolability on judges as an additional guarantee for judges, there was no internationally recognised norm requiring such inviolability. On the contrary, international standards supported the principle that, when not exercising judicial functions, judges are liable under civil, criminal and administrative law in the same way as any other citizen. Criminal judicial inviolability did not exist in the majority of European states.

The opinion insisted that it only dealt with the issue of whether the removal of immunity for offences of passive corruption and trafficking in influence contradicted European standards. Whether the amendments contradicted the constitution remained to be decided by the Constitutional Court.

In its judgment of 5 September 2013, the Constitutional Court referred to the Commission’s opinion and agreed that judicial immunity was not an absolute guarantee

and should not provide privileges, but only shield judges from external pressure. Nonetheless, the court found a section of the law to be partly unconstitutional because it was unclear who could take investigatory measures against judges (only the prosecutor general could bring a case to court) and because the fight against corruption could not justify the complete removal of immunity for administrative offences.

International conference on “Justice free of corruption”

On 21 October 2013, the Venice Commission participated in a conference on the topic “Justice free of corruption”, which was held in Chişinău, Moldova. This conference related to the opinion on judicial immunity presented above.

Montenegro

European Union 8th Western Balkans JAI-NET Meeting

On 21 and 22 October 2013, the Venice Commission participated in the European Union’s 8th Western Balkans JAI-NET meeting, which was held in Budva, Montenegro. JAI-NET are meetings on justice and home affairs of the delegations of the European Commission in EU candidate countries. The delegation of the Venice Commission presented the Commission’s report on the independence of the judiciary and relevant opinions relating to Bosnia and Herzegovina, Montenegro, Serbia and Turkey.

Peru

Regional seminar “Individual access to constitutional justice”

On 30 and 31 May 2013, the Venice Commission participated in the regional seminar on the topic “Individual access to constitutional justice” which was held in Arequipa, Peru. This conference enabled a comparison

between the European and Latin American systems of individual complaints (*amparo, tutela*, etc.). The delegation of the Venice Commission presented national experiences and the Commission’s study on individual access to constitutional justice and the particular relationship between individual complaints and the workload of the European Court of Human Rights.

Russian Federation

Moot court on constitutional justice

On 28 and 29 November 2013, the Venice Commission co-organised with the Institute for Public Law and Policy the annual moot court on constitutional justice, which was held in St Petersburg, Russia. 35 student teams competed in the written and oral qualifying rounds. One team took the side of the appellant, the other the position of the state, in a demonstration of their skills and knowledge. The case to be argued was called “Mind Games: the Case on Freedom of the Internet”. Five judges (including judges and members of the Constitutional Court of the Russian Federation, a member of the Venice Commission and constitutional and legal scholars from Russia and Europe) assessed the participants’ knowledge of the law; their ability to articulate the facts of the case; their skill in answering questions asked by the judges during oral argument; their debating skills and presentation as well as their ability to manage the time allotted to them to speak.

Serbia

Opinion on the draft amendments to the laws on the judiciary of Serbia (CDL-AD(2013)005)

On 3 January 2013, the Venice Commission received a request for an opinion on the draft amendments to the law on judges and to the law on the organisation of courts, from Mr Nikola Selaković, Minister for Justice and Public Administration of Serbia.

The opinion, adopted at the March 2013 session, welcomed the amendments to the laws on the judiciary, but pointed out that a number of provisions needed to be revisited. With respect to the amendments to the law on judges, this mainly concerned the liability of judges for damages which should be approached with caution; the introduction of the possibility to carry out a general review of all courts and judicial posts at very short intervals (every three years) which should be reconsidered; the standards of evaluation and the procedures for judges and their dismissal which should be more clearly defined and the National Assembly's role in the election of judges and of court presidents which should be revisited as it politicised the judiciary. With respect to the amendments to the law on the organisation of courts, the introduction of several provisions dealing with the protection of the right to a trial within a reasonable period of time could be considered an effective tool, but currently a more general and systematic approach was needed to introduce an effective and well-balanced mechanism for the judiciary in Serbia.

Opinion on the draft amendments to the law on public prosecution (CDL-AD(2013)006)

On 3 January 2013, the Venice Commission received a request for an opinion on the draft amendments to the law on public prosecution from Mr Nikola Selaković, Minister for Justice and Public Administration of Serbia.

The opinion, adopted at the March 2013 session, welcomed the draft amendments, but recommended that a number of provisions be revisited and clarified. These included the provisions on the mechanism for objecting to oral instructions (notably mandatory instructions of a higher-ranking public prosecutor to a lower-ranking public prosecutor) that cover the situation of a prosecutor dealing with an instruction which is against his/her conscience; and the competence of the Republic's Public Prosecutor to submit

“other reports” to the National Assembly, other than the regular annual reports, which seemed reasonable provided that it refers to the *competence* rather than to the *obligation* of the prosecutor to do so. The right of a prosecutor, who is subject to a disciplinary sanction, to appeal to the administrative court also needed to be clarified.

International conference “Position and perspective of constitutional justice”

On 17 October 2013, the Venice Commission participated in an international conference on the topic “Position and perspective of constitutional justice”, which was held in Belgrade, Serbia. The purpose of the conference was to provide international experience on how to deal effectively with the huge caseload of the Constitutional Court. The previous year, the court had resolved some 1 000 cases out of a caseload of 5 000 cases. In 50 cases the court had found a non-constitutionality of normative acts, on issues relating *inter alia* to income tax, military intelligence, protection of personal data and the autonomy of Vojvodina. Another problem for the court was the blocking of the procedure for the appointment of judges on some occasions.

Slovakia

Conference on “The position of Constitutional Courts and their influence on the legal order of the state”

On 9 and 10 April 2013, the Venice Commission participated in a conference on the topic “The position of Constitutional Courts and their influence on the legal order of the State”, which was held in Kosice, Slovakia. The participants discussed, *inter alia*, the role of the Constitutional Courts as a negative legislator and how far a court can go in assuming a more active approach. The focus of interventions was in particular on an effective protection of human rights by the Constitutional Courts.

Tajikistan

Opinion on the draft code on judicial ethics of Tajikistan (CDL-AD(2013)035)

On 17 September 2013, the Venice Commission received a request for an opinion on the draft code on judicial ethics from Mr Zafar Azizov, President of the Judicial Council of Tajikistan. It was the first request for an opinion by Tajikistan and therefore a positive step for the independence of the judiciary of this country.

The opinion, adopted at the December 2013 session, clearly set out that it was important to note that a code of ethics cannot be seen as replacing the constitutional and legal provisions on the judiciary based on the principle of the rule of law. It was therefore important that the draft code be considered within the context of the Constitution of Tajikistan and other laws applicable in this area. In particular, it was important that the procedural principles on the relationship between ethical standards and disciplinary provisions be established by law.

The code of ethics was adopted by the Conference of Judges of Tajikistan at the end of November 2013. The Venice Commission was informed that, although the code had been adopted before the opinion was finalised, the latter would still be of invaluable assistance in the development of the judiciary's professionalism in Tajikistan.

See also Chapter V.2 for further details on co-operation with Tajikistan.

Ukraine

Opinion on the draft law on the amendments to the Constitution, strengthening the independence of judges (including an explanatory note and a comparative table)

and on the changes to the Constitution proposed by the Constitutional Assembly of Ukraine (CDL-AD(2013)014)

On 29 March 2013, the Venice Commission received a request for an opinion by Mr L. Kravchuk, Chairman of the Constitutional Assembly of Ukraine, on the draft law “on the amendments to the Constitution of Ukraine on the enhancement of the guarantee of the independence of judges” and on the “Changes to the Constitution of Ukraine proposed by the Constitutional Assembly”.

The opinion, adopted at the June 2013 session, welcomed these two sets of amendments, but pointed out that there were a number of issues that needed to be reconsidered. These included the immunity of judges, which should be reduced to functional immunity, and the issue of the dismissal of judges for breach of oath, which should be replaced by dismissal for having committed a specific offence.

The opinion stated that the changes proposed would be a welcome addition to the amendments, notably aspects of the right to a fair trial derived from Article 6 of the European Convention on Human Rights and the powers of the Supreme Court to ensure the uniform application of the law.

Opinion on proposals amending the draft law on the amendments to the Constitution to strengthen the independence of judges of Ukraine (CDL-AD(2013)034)

On 5 November 2013, the Head of the Administration of the President of Ukraine requested the Venice Commission to prepare an opinion on proposals, submitted by 156 members of the Verkhovna Rada, amending the draft law “on amendments to the constitution, strengthening the independence of the judges”.

The opinion, adopted at the December 2013 session, was a follow-up to the opinion on the draft law

amending the constitution, adopted at the June 2013 session (CDL-AD(2013)014).

The opinion welcomed a number of positive elements in the proposals, notably: the introduction of a right to fair trial within a reasonable time, the exclusion of the reappointment of the prosecutor general; the strengthening of the role of the Supreme Court; the recognition of the jurisdiction of the International Criminal Court, the reduction of judicial immunity and the direct appointment and dismissal of judges by the High Judicial Council.

However, the opinion also criticised several elements, notably the impeachment of judges by the Verkhovna Rada and the direct initiation of such impeachment by citizens, discrimination in the retirement age between “higher” and “lower” ranking judges, the dismissal of judges because of the vague term “breach of oath”, a requalification examination for all judges, the dismissal of judges because of a refusal to transfer against their will, the link between prosecution and the High Judicial Council and an incoherent distribution of functions between the High Judicial Council and the High Qualification Commission.

The Venice Commission expressed its hope that the positive elements of the proposals could be included in the draft without significantly delaying its entry into force.

Joint Opinion on the draft law on the public prosecutor’s office of Ukraine (CDL-AD(2013)025)

On 2 August 2013, the Head of the Presidential Administration of Ukraine requested an opinion on the draft law on the public prosecutor’s office of Ukraine from the Venice Commission and the Directorate of Human Rights of the Directorate General for Human Rights and Rule of Law of the Council of Europe.

The opinion, endorsed at the October 2013 session, had already been transmitted to the Ukrainian authorities in September in view of the urgency of this matter.

The opinion found that the provisions of the draft law on the public prosecutor’s office constituted substantial advances as compared with previous proposals, notably the exclusion of the general supervision function from the functions of the public prosecutor’s office.

However, several issues should be addressed on the constitutional level, notably: providing that the president can dismiss the prosecutor general only on specific grounds, following a fair hearing; removing the public prosecution’s function of representation of the interests of individuals; and removing the no-confidence vote in the prosecutor general. However, the preparation of such constitutional amendments should not preclude the adoption of the draft law under the current constitutional provisions.

The opinion recommended amending the draft law by removing functions that went beyond the criminal justice sphere relating to the representation of the interests of the individual. In particular the draft should provide that the role of the prosecutor in representing the individual should be only subsidiary and both the individual and any person entitled to represent the individual should be able to object to such representation in court. Such representation should be possible only after the prosecutor had presented justification for his or her intervention and after the acceptance of these grounds by a court. In such cases, the prosecutor should be able to exert only the powers of the individual or state body, which he or she represented.

The opinion also recommended that instructions to a lower-ranking prosecutor should be given in writing, and, upon request, any oral instructions should be confirmed in writing. In the case of an allegation that an

instruction was illegal, a court or an independent body such as a prosecutorial council should decide on the legality of the instruction.

A third concern related to the position of the prosecutor general and the opinion recommended providing that an advisory body give non-binding advice on the candidates before the president and the Verkhovna Rada take their decision on appointment. Also a preliminary procedure before the High Qualification and Disciplinary Commission of Prosecutors should provide advice to the president and the Verkhovna Rada on any violations of the professional responsibilities of the prosecutor general.

A liability for “disrespect” should be removed or clearly defined as excluding legitimate criticism according to the European Convention on Human Rights and the case law of the European Court of Human Rights.

Finally, the opinion recommended ruling out that the acquittal of a person accused by a prosecutor could result in disciplinary proceedings against the prosecutor or be regarded as a negative performance indicator, unless the charges were brought due to gross negligence or maliciously. Appeals against disciplinary sanctions should lie with a court only.

Following the opinion, the presidential administration prepared a revised draft which, however, was not further pursued in 2013.

International conference on “The protection of human and citizens’ rights by bodies of constitutional jurisdiction in the current context”

On 20 to 22 June 2013, the Venice Commission participated in an international conference on the topic “Protection of human and citizens’ rights by bodies of constitutional jurisdiction in the current context”, which was held in Yalta, Ukraine. The conference explored how

Constitutional Courts could provide an effective protection of human rights. The Venice Commission presented national experiences and suggested introducing in Ukraine a full individual complaint, which would allow complaints not only against unconstitutional legislation but also against unconstitutional individual acts.

International conference on “the Legal Status of the High Qualification Commission of Judges of Ukraine”

On 28 and 29 October 2013, the Venice Commission participated in an international conference on the “Legal Status of the High Qualification Commission of Judges of Ukraine”, held in Kyiv, Ukraine. The Venice Commission delegation presented recent opinions on Ukraine, which *inter alia* discussed the relationship between the High Qualification Commission and the High Judicial Council.

2. Joint Council on Constitutional Justice

On 8 and 9 October 2013, the Joint Council on Constitutional Justice held its 12th meeting in Venice, Italy followed by a mini-conference on the topic “Children’s rights”. The meeting focused on the publication of the *Bulletin on Constitutional Case-Law* and the production of the CODICES database, on the working of the classic Venice Forum (open to courts participating in the Joint Council), the Venice Forum Newsgroup (also accessible to Constitutional Courts, which are in partnership with the Venice Commission on the basis of an agreement with a regional or language-based group of Constitutional Courts or equivalent bodies – see Section 3, below).

The choice of the topic “Children’s Rights” for the mini-conference related to the ongoing study of the Venice Commission, which was presented to the participants by

one of the study's rapporteurs. The liaison officers from the Constitutional Courts of Austria, Belgium, Chile, the Czech Republic and Romania, from the Council of State of the Netherlands and the European Court of Human Rights presented the relevant case law of their courts.

3. *Bulletin on Constitutional Case-Law* and CODICES database

The *Bulletin on Constitutional Case-Law*, first published in January 1993, contains summaries of the most important decisions sent in by the Constitutional Courts or equivalent bodies from over 60 countries, the European Court of Human Rights and the Court of Justice of the European Union. The contributions to the Bulletin are supplied by liaison officers appointed by the courts themselves.

The regular issues of the Bulletin are supplemented by a series of special bulletins on specific topics or containing descriptions of the courts and basic material, such as extracts from constitutions and legislation on the courts, thus enabling readers to put the different courts' case law into context. The Bulletin's main purpose is to encourage an exchange of information between courts and to help judges settle sensitive legal issues, which often arise simultaneously in several countries. It is also a useful tool for academics and all those with an interest in this field. The newly established Constitutional Courts in central and eastern Europe benefit from such co-operation and exchanges of information as well as from the judgments of their counterparts in other countries.

In July 2013, the Special Bulletin on "Leading cases of the Court of Justice of the European Union" was published in co-operation with that court. In 2013, three regular issues of the Bulletin were published.

The Commission is grateful to the *Organisation Internationale de la Francophonie* for its support for the publication of the Bulletin in the French language (see also Chapter VI).

4. Venice Forum

The "classic" Venice Forum is a restricted platform where liaison officers, appointed by Constitutional Courts or courts with equivalent bodies, can share information about pending cases that should not be made public. In 2013, the forum received 32 questions on a wide range of topics.

The Venice Forum Newsgroup is also open to courts working with the Venice Commission within the framework of regional agreements (see Section 5, below). The restricted Newsgroup enables the courts to make online announcements on changes in their composition, on key judgments handed down and to make various requests to other courts.

5. Regional co-operation

The Venice Commission co-operates closely with Constitutional Courts and equivalent bodies in its member, associate member and observer states. These courts meet with the Commission within the framework of the Joint Council on Constitutional Justice. The publication of case law in English and in French in the printed *Bulletin on Constitutional Case-Law*, and access to the classic Venice Forum (quick online requests to other Constitutional Courts on cases relevant for pending cases) are reserved to courts represented in the Joint Council.

On the basis of various co-operation agreements, Constitutional Courts united in regional or language-based groups may contribute to the CODICES database and to the Venice Forum Newsgroup (various online announcements and requests).

Conference of European Constitutional Courts (CECC)⁵

On behalf of the Conference of European Constitutional Courts, the liaison officer for the Constitutional Court of Austria informed the participants about the preparation of the XVIth Congress.

Since 1999, the Joint Council has produced working documents upon request by the presidencies of the CECC on the topics of the CECC congresses. These working documents consist of extracts from the CODICES database complemented by additional information provided by the liaison officers. These texts are made available to the courts as working documents before the congress and they are published as special editions of the *Bulletin on Constitutional Case-Law* after the event, together with the general report of the congress.

In 2013, the secretariat prepared the working document on the topic of the XVIth Congress of the Conference of European Constitutional Courts (Vienna, Austria, May 2014) on “Co-operation of Constitutional Courts in Europe – Current situation and perspectives”. The document deals with all three subtopics of the XVIth Congress: 1) Constitutional Courts between constitutional law and European law, 2) Interaction between Constitutional Courts and 3) Interaction between European Courts.” Promoting co-operation between the courts is at the very core of the Joint Council’s work.

Association of Constitutional Courts using the French Language (ACCPUF)⁶

On the basis of the Vaduz Agreement and its Djibouti Protocol with ACCPUF, the Venice Commission has

5. See the co-operation page: www.venice.coe.int/CECC/.

6. See the co-operation page: www.venice.coe.int/ACCPUF/.

continued to include the case law of ACCPUF courts in the CODICES database.

On 7 and 8 November 2013, the Venice Commission participated in the 8th seminar gathering of the national correspondents of ACCPUF in Paris, France. The Commission presented the functioning of the CODICES database and trained the correspondents in the preparation of contributions to the database.

Southern African Chief Justices Forum (SACJF)

The basis of the co-operation with the Southern African Chief Justices Forum is the co-operation agreement, signed in Maseru in 2007.

The Venice Commission participated in the annual conference of the Southern African Chief Justices Forum on “The Quest for an Efficient Judicial System as a Key to Democratic and Economic Development” held in Livingstone, Zambia (2-3 August 2013). The Commission delegation called upon the SACJF members to contribute to the CODICES database and join the World Conference on Constitutional Justice.

On behalf of the Southern African Chief Justices Forum, the acting Chief Justice of the Supreme Court of Zambia participated in the 12th meeting of the Joint Council on Constitutional Justice (Venice, Italy, 8-9 October 2013), where she welcomed the co-operation with the Venice Commission and the World Conference on Constitutional Justice.

Conference of the Constitutional Control Organs of the Countries of New Democracy (CCCOCND)

On the basis of the co-operation agreement with the Conference of the Constitutional Control Organs of the Countries of New Democracy, signed in Yerevan in

October 2003, the Venice Commission co-organised with the Constitutional Court of Armenia and the European Court of Human Rights, a conference on the topic “European Standards of Rule of Law and the Scope of Discretionary Powers in the Member States of the Council of Europe” (Yerevan, Armenia, 3-4 July 2013). For the results of this conference, see above under “Armenia”.

Association of Asian Constitutional Courts and Equivalent Institutions (AACC)

On behalf of the Association of Asian Constitutional Courts and Equivalent Institutions, the liaison officer for the Constitutional Court of Turkey announced, at the 12th meeting of the Joint Council on Constitutional Justice (Venice, Italy, 8-9 October 2013), that the Venice Commission would be invited to the 2nd congress of the AACC to be held in Istanbul, Turkey, on 28 to 30 April 2014.

Ibero-American Conference of Constitutional Justice (CIJC)

The Ibero-American Conference of Constitutional Justice invited the Venice Commission to the Xth Ibero-American Conference of Constitutional Justice on “Legal rules and the Supremacy of the Constitution” to be held in Santo Domingo, Dominican Republic, in March 2014.

Union of Arab Constitutional Courts and Councils (UACCC)

Co-operation with the UACCC is based on a co-operation agreement signed in June 2008.

Both the Moroccan Presidency, represented by the liaison officers of the Constitutional Council of Morocco, and the Egyptian Secretary General participated in the 12th meeting

of the Joint Council on Constitutional Justice (Venice, Italy, 8-9 October 2013). They welcomed the progress made in the co-operation with the Venice Commission.

Conference of Constitutional Courts of Portuguese Speaking Countries (CJCPLP)

On the basis of the co-operation agreement, signed in 2012, the Constitutional Court of Angola represented the Conference of Constitutional Courts of Portuguese Speaking Countries at the 12th meeting of the Joint Council on Constitutional Justice (Venice, Italy, 8-9 October 2013). The Venice Commission will be invited to the General Assembly of the CJCPLP in June 2014.

Conference of Constitutional Jurisdictions of Africa (CCJA)

On 9 to 12 May 2013, the Venice Commission participated in the 2nd congress of the Conference of Constitutional Courts of Africa that took place in Cotonou, Benin. On this occasion, a co-operation agreement was signed, which provides for contributions to the CODICES database and access to the Venice Forum Newsgroup.

A delegation of the Conference of Constitutional Jurisdictions of Africa, composed of its Secretary General (Constitutional Council of Senegal) and the Deputy Secretary General (Constitutional Council of Algeria), informed the Joint Council on Constitutional Justice at its 12th meeting which took place in Venice, on 8 and 9 October 2013, about the work of the CCJA.

6. World Conference on Constitutional Justice (WCCJ)

According to the Statute of the World Conference on Constitutional Justice, the Venice Commission acts as the Secretariat of the World Conference.

The World Conference unites 86 Constitutional Courts and Councils and Supreme Courts in Africa, the Americas, Asia and Europe. It promotes constitutional justice – understood as constitutional review including human rights case law – as a key element for democracy, the protection of human rights and the rule of law (Article 1.1 of the Statute).

The World Conference pursues its objectives through the organisation of regular congresses, by participating in regional conferences and seminars, by promoting the exchange of experiences and case law and by offering good services to members at their request (Article 1.2 of the Statute).

The main purpose of the World Conference is to facilitate judicial dialogue between constitutional judges on a global scale. Due to the obligation of judicial restraint, constitutional judges sometimes have little opportunity to conduct a constructive dialogue on constitutional principles in their countries. The exchanges that take place between judges in the World Conference further reflect on arguments which promote the basic goals

inherent in the national constitutions. Even if these texts often differ substantially, discussion on the underlying constitutional concepts unites constitutional judges from various parts of the world who are committed to promoting constitutionalism in their own country.

The Bureau of the World Conference met on 15 June 2012 in Venice and decided that “Constitutional justice and social integration” would be the topic of the 3rd congress of the World Conference, to be hosted by the Constitutional Court of the Republic of Korea in Seoul on 28 September to 1 October 2014. In addition to this topic, the Bureau decided that future congresses should always include a session on stocktaking of judicial independence.

In addition to practical matters of the organisation of the 3rd congress, the Bureau also discussed the report on the membership of the World Conference, the financial report regarding contributions to the World Conference, the relationship between the World Conference and bilateral agreements concluded between regional and linguistic groups and the Venice Commission and decided on a logo for the World Conference.

Elections, referendums and political parties

1. Country specific activities

Albania

Long-term assistance to the Central Electoral Commission

The Venice Commission provided long-term assistance to the Central Electoral Commission of Albania (CEC) from 11 February to 6 July 2013, by making available two experts who:

- provided advice and support to the Central Electoral Commission for the standardisation and simplification of election procedures and documents, in particular candidacy documents, and working documentation of the Commission of Election Administrative Zones (CEAZ) and Vote Centre Commissions (VCC);
- provided assistance to the CEC training unit, developed and delivered a programme of training for trainers of Election Commissioners at CEAZ and VCC levels by:
 - the drafting of training modules and manuals for members of CEAZ and VCC;
 - the training for trainers of members of CEAZ and VCC.

Assistance to the PACE election observation mission

At the request of the Parliamentary Assembly of the Council of Europe, the Venice Commission provided legal assistance to the Election Observation Mission of the Assembly in the context of the parliamentary elections of 23 June 2013.

The delegation met with heads of political parties taking part in the elections or their representatives, the Chairman of the Central Electoral Commission, the civil society and media representatives, before observing the ballot on 23 June.

Meeting on the strategic action plan

On 5 September 2013, the Venice Commission took part in a meeting in Tirana on the future strategic action plan of Albania, organised jointly by the Council of Europe and the Central Electoral Commission of Albania. There was an exchange of views between the international organisations working in the country, including the Council of Europe, and the authorities which had been assisted by the Council of Europe and the Venice Commission in the electoral field, in order to identify the lessons learnt and the future plan of action to be developed in the country.

Armenia

Seminar with judges on electoral issues

At the request of the Judicial School of Armenia, the Venice Commission co-organised a seminar with judges on electoral disputes aimed at preventing problems during the presidential elections of 18 February 2013. For this purpose, a Venice Commission expert met around 25 judges on 4 and 5 February 2013 in Yerevan.

Assistance to the PACE election observation mission

At the request of the Parliamentary Assembly of the Council of Europe (PACE), the Venice Commission provided legal assistance to the Election Observation

Mission of the Assembly in the context of the presidential elections of 18 February 2013.

The delegation met with the candidates or their representatives, the Chairman of the Central Electoral Commission, the civil society and media representatives, before observing the ballot on 18 February.

Bulgaria

Assistance to the PACE election observation mission

At the request of the Parliamentary Assembly of the Council of Europe (PACE), the Venice Commission provided legal assistance to the Election Observation Mission of the Assembly in the context of the parliamentary elections of 12 May 2013.

The delegation met with heads of political parties taking part in the elections or their representatives, the Chairman of the Central Electoral Commission, the civil society and media representatives, before observing the ballot on 12 May.

Follow-up to opinions in the field of elections and political parties

At its June 2013 session, the Venice Commission was informed about the follow-up to the joint opinion by the Venice Commission and the OSCE/ODIHR on the Electoral Code of Bulgaria (CDL-AD(2011)013). The code was modified in February 2013 and tested for the first time in the parliamentary elections of 12 May 2013. This improved the transparency of the election administration's decisions and the rights of national observers. However, the introduction of changes to the code only two months before the early parliamentary elections was a factor threatening the stability of the system. Moreover, several key recommendations remained unaddressed, mainly concerning the lack of balance between political parties in the appointment of chairpersons and

secretaries at all levels of the election administration; the need to reinforce criteria concerning political party and campaign financing, mainly regarding sanctions; the achievement of further pluralistic media access and coverage; the rights of minorities, mainly on the use of their mother tongue during electoral campaigns and in electoral material; the deprivation of voting rights, which should be further defined to apply only to persons convicted of a serious crime; and, finally, the type of existing remedies against electoral results.

In autumn 2013, the National Assembly of Bulgaria engaged in a broad consultation process aimed at enacting a new election code. For this purpose, in November 2013 the National Assembly of Bulgaria requested an opinion from the Venice Commission as a matter of urgency. The opinion is being prepared jointly with the OSCE/ODIHR.

On 13 and 14 November 2013, in relation to the ongoing electoral reform in Bulgaria, a delegation of the Venice Commission met with representatives of the National Assembly of Bulgaria, of political parties and of the civil society as well as the parliamentary committees in charge of preparing draft amendments.

It was noted that the committee set up to draft the new election code had given the opposition parties and the civil society the opportunity to participate in this consultation process. The crucial changes suggested in the draft code seemed to have been agreed by most of the stakeholders.

Georgia

Assistance to the Central Election Commission of Georgia

At the request of the Central Election Commission of Georgia and in view of the 27 October presidential elections, election experts of the Venice Commission provided legal and technical advice to the Central

Election Commission of Georgia from 1 October 2013 to 1 November 2013.

Legal assistance to an election observation mission

At the request of the Parliamentary Assembly of the Council of Europe (PACE), the Venice Commission provided legal assistance to the Election Observation Mission of the Assembly in the context of the presidential elections of 27 October 2013.

The delegation met with the candidates or their representatives, the Chair of the Central Election Commission, the civil society and media representatives, before observing the ballot on 27 October.

Mexico

International congress on the implementation of international human rights in domestic law, in particular with regard to electoral rights

See Chapter V.3.

Meeting on the VOTA database

See Chapter IV.3.

Republic of Moldova

Opinion on the Electoral Code and the Law on financing of political parties and electoral campaigns (CDL-AD(2013)002)

In July 2012, the Central Election Commission of the Republic of Moldova had requested from the OSCE an opinion on a draft law on amendment and completion of legislative acts. In September 2012, the Parliament of the Republic of Moldova had requested the OSCE to provide an opinion on the draft law on financing of political parties and electoral campaigns. Both requests were aimed at amending legislation

pertaining to political party and election campaign financing. Therefore, the OSCE/ODIHR and the Venice Commission agreed to prepare a joint opinion on both pieces of draft legislation.

On 23 and 24 January 2013, a delegation made up of Venice Commission and OSCE/ODIHR experts visited Moldova and met with a range of stakeholders, including parliamentary caucuses of major political parties, the Minister of Justice, the Central Election Commission, local NGOs and international organisations, to discuss relevant international standards and the background to the development of the amendments.

The opinion, adopted at the March 2013 session, underlined that both the draft amendments and the draft law met many international standards and good practices relevant to the funding of political parties and electoral campaigns. At the same time, in order to ensure full compliance with such standards, the opinion recommended a number of changes in the draft texts, *inter alia*, to reconsider the imposition of an annual ceiling for all permissible donations and member fees; to reduce annual ceilings for private donations to political parties; to remove the blanket ban on third-party donations; to consider establishing an independent directorate of financial control in the Central Election Commission and to enhance the system of sanctions.

Montenegro

Assistance to the PACE election observation mission

At the request of the Parliamentary Assembly of the Council of Europe (PACE), the Venice Commission provided legal assistance to the Election Observation Mission of the Assembly in the context of the presidential elections of 7 April 2013.

The delegation met with the candidates in the election or their representatives, the Chair of the Republican

Electoral Commission, the civil society and media representatives, before observing the ballot on 7 April.

“The former Yugoslav Republic of Macedonia”

Joint Opinion on the Electoral Code (CDL-AD(2013)020)

Following a request from the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, the Venice Commission and the Council for Democratic Elections adopted, at the June 2013 session, a joint opinion with the OSCE/ODIHR, on the Electoral Code of “the former Yugoslav Republic of Macedonia”.

In the framework of the preparation of this opinion, a Venice Commission delegation travelled to Skopje on 15 and 16 May 2013 and met with the various authorities concerned, as well as with members of the civil society and the main political parties from the ruling coalition and from the opposition.

The opinion noted that the November 2012 amendments to the Electoral Code had been adopted against the background of the lack of political consensus and cooperation between the government, the opposition and various other interested groups. The importance of an inclusive process and a constructive dialogue among all political forces and stakeholders in any further amendments to the Electoral Code was stressed. However, the amendments introduced improved the previous Electoral Code. The most important amendments adopted following the last joint opinions touched upon the issue of the separation of the state and political parties, registration of candidates, media, political party and campaign finance reporting and auditing, clarifications on the right to vote and to be elected. Nevertheless, many issues still needed to be addressed, as recommendations made in earlier opinions had not been followed. This was notably the case with regard to thresholds for campaign donations, publication and tabulation of election

results, complaints and appeals procedures, the turnout requirement in presidential elections and the system and arrangements for out-of-country voting.

Electoral conference

At the invitation of the OSCE Mission to Skopje, a Venice Commission election expert took part in the international conference on political party and campaign financing. This conference was organised in Skopje on 30 and 31 October 2013 by the OSCE Mission, the European Union Delegation and the State Commission for Prevention of Corruption.

Ukraine

Technical meeting on electoral reform

A Venice Commission delegation travelled to Kyiv on 25 April 2013, to meet with a group of experts, at the technical level, from the Ministry of Justice of Ukraine as well as with some members of parliament from the majority and the opposition, to consider the draft amendments to the electoral legislation. The OSCE/ODIHR and the EU Delegation in Ukraine were also present at this meeting. This activity served as a preparatory meeting for the opinion requested on this matter.

Joint Opinion on the draft amendments to the laws on election of people’s deputies and on the central electoral commission and on the draft law on repeat elections of Ukraine (CDL-AD(2013)016)

Following a request from the Minister of Justice of Ukraine, the Venice Commission and the Council for Democratic Elections adopted, at the June 2013 session, a joint opinion with the OSCE/ODIHR on the draft amendments to the electoral legislation of Ukraine.

The electoral reform was launched following the conclusions of the meeting of the Council of the European

Union on Ukraine, held in December 2012, which stated that the signature of the association agreement with Ukraine at the end of 2013 would depend on three main reforms: electoral reform, judicial reform and the implementation of the European Court of Human Rights judgments concerning people in detention, in what was a clear reference to the high-level politicians in prison.

The draft reform introduced only limited amendments to the electoral legislation. A comprehensive electoral reform, which would imply amending and harmonising the different pieces of electoral legislation, was necessary. This would include further revision of the legal framework and the incorporation of the remaining recommendations of previous OSCE/ODIHR reports and joint OSCE/ODIHR and Venice Commission opinions. There were, nevertheless, several improvements, such as the introduction of criteria for the establishment of single-mandate districts, the transparency of the CEC, the limits to changes in voter registration, the requirements on reporting on campaign funds and the provisions to ensure more equitable coverage of the elections by media.

However, key issues and recommendations raised in previous joint opinions of the Venice Commission and the OSCE/ODIHR remained unaddressed in the draft laws. In particular, the mixed system of 225 single-mandate districts and 225 proportional representation mandates was retained in the draft, although it reintroduced deficiencies which had appeared when it had previously been used. Limitations on the right to be a candidate, such as the exclusion of anyone with a conviction regardless of the severity of the crime committed, and the five-year residency requirement for candidates which was excessive and unreasonable, among many other issues, have not been changed.

Finally, in five electoral districts, the result of the elections was not valid and there was a need for repeat elections. The draft law submitted for opinion on repeating

the elections had some shortcomings in relation to the training requirements for election commission members, but could end the stalemate on the issue.

Opinion on the Law on National Referendum of Ukraine (CDL-AD(2013)017)

This opinion on the text of the Law of Ukraine No. 5475-VI “On National Referendum” was requested by the Chair of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, Mr Andres Herkel, on 29 November 2012. The law on referendums had been adopted by the Verkhovna Rada of Ukraine (hereinafter “the Rada”) in November 2012 and entered into force on 6 November 2012. The new law aimed at establishing a legal framework for organising referendums provided for by the Constitution of Ukraine. It replaced a 1991 law on referendums which had been amended on several occasions. This opinion focused mostly on issues related to the all-Ukraine referendum on a new constitution or constitutional amendments, notably on provisions related to referendums organised on popular initiative. However, several other issues were commented upon, such as the questions submitted to a referendum, the organisation of referendum commissions, the funding of referendum campaigns, the role of the media and voter registration.

The provisions in the Law on National Referendum followed the interpretation of the limited power of the Rada and the president to call a referendum, as well as the general scope of a referendum on a popular initiative. However, the Commission was of the opinion that some of the provisions of this new law, enabling a referendum on constitutional changes to be called on popular initiative, risked being problematic not only in respect of some of the internationally recognised standards in the field of referendums, but also in the way these provisions interpreted the text of the Constitution of Ukraine. The Venice Commission had already indicated in its opinions

on the previous draft laws on referendums in Ukraine that some of their provisions went beyond the constitutional norm and could result in a politically motivated manipulation of the referendum, notably, in changing the constitution in a way not foreseen by the text of the Constitution of Ukraine. Unfortunately, the adopted law included similar provisions.

The Commission was of the opinion that allowing for a national referendum on popular initiative on a new constitution or on constitutional amendments (as it appeared in the examined law on referendum) would make it possible to circumvent the requirement of a qualified majority in the parliament. The Commission strongly believed that this would be detrimental to constitutional stability and legitimacy in Ukraine.

Round tables on the electoral reform in Ukraine (Kyiv, 13 August 2013; 11 September 2013; 14 November 2013)

A series of round tables to discuss electoral reform in Ukraine was organised in Kyiv. The Ministry of Justice opened up inclusive discussions on the electoral reform process with the different stakeholders, including the civil society. All round tables were organised with a high level of attendance of political parties' representatives, the authorities, international organisations and the media.

The round tables were held before the meeting with the European Union for the signature of the association agreement in Vilnius in November 2013. However, the round tables were marked by a change in the government's attitude with respect to the signature of the agreement with the European Union, which had not been signed. The draft law on parliamentary elections was adopted after the second reading at the Verkhovna Rada on 19 November 2013. Unfortunately, the main recommendations made during the round tables were not included in the adopted law.

Opinion on the draft amendments to legislation on election of people's deputies and other related laws of Ukraine (CDL-AD(2013)026)

Following a new request from the Minister of Justice of Ukraine in July 2013, the Venice Commission and the Council for Democratic Elections adopted, at the October 2013 session, a joint opinion with the OSCE/ODIHR, on the new draft amendments to the electoral legislation of Ukraine.

This joint opinion carefully considered the written comments of the Ministry of Justice, submitted both in August and in October 2013, as well as the new July amendments. These amendments were in general a positive step, mainly concerning the maximum number of voters allocated to polling stations, the reduction of the number of members of precinct electoral commissions, the inclusion of more categories of documents by the election commissions to be published, the reduction of the amount of the deposit for registering party lists and single-member district candidates and the inclusion in campaigns of information in minority languages. However, extensive revisions were necessary to incorporate unaddressed recommendations. A comprehensive electoral reform, amending and harmonising the different pieces of electoral legislation regulating parliamentary, presidential and local elections was necessary. The change in the electoral system, and significant amendments aimed at fully ensuring the rights to vote and to be elected remained necessary.

Follow-up to the opinions on electoral legislation

At its December 2013 session, the Venice Commission was informed about the follow-up to the joint opinions on the draft law on election of people's deputies of Ukraine and on the CEC and on the draft law on repeat elections of Ukraine (CDL-AD(2013)016) and

on the draft amendments to legislation on election of people's deputies and other related laws of Ukraine (CDL-AD(2013)026).

The two joint opinions by the Commission and the OSCE/ODIHR recommended substantive constitutional and legislative changes in the electoral field. The Verkhovna Rada of Ukraine adopted the amendments on 19 November 2013. However, the adopted law on the election of members of parliament, technical and limited in content, did not address any key issues, such as the harmonisation of electoral legislation, the choice of a mixed electoral system, the excessive candidacy requirements and the limitations on political rights, mainly following criminal convictions.

2. Transnational activities

Eastern Partnership Facility of the European Union

Seminar on the use of administrative resources during electoral campaigns

An Eastern Partnership Facility Seminar entitled "The use of administrative resources during electoral campaigns" was organised by the Venice Commission in co-operation with the Central Election Commission of Georgia on 17 and 18 April 2013.

This activity was financed by the Joint Programme of the European Union and the Council of Europe "Support to free and fair elections in the Eastern Partnership countries".

Representatives from the electoral management bodies of Armenia, Azerbaijan, Georgia and Moldova took part in this seminar. After an introductory session with speeches, *inter alia* from Mr Jandieri, first Deputy Minister of Justice, and Mr Dimitrov, Ambassador of the European

Union to Georgia, a Venice Commission representative presented the preliminary report on the use of administrative resources during electoral campaigns and the legislative framework on the use of administrative resources in Latin America. Various interventions delivered by other experts and country representatives presented the current practice regarding the use of administrative resources during elections in their respective countries.

Seminar on "Election observation and Central Electoral Commissions"

This seminar, organised by the Venice Commission in Strasbourg on 25 and 26 November 2013, brought together representatives from the Central Electoral Commissions of Armenia, Azerbaijan, Georgia, the Republic of Moldova and Ukraine, from the Parliamentary Assembly of the Council of Europe and the OSCE/ODIHR as well as international experts. The seminar was an opportunity to exchange views on good practices on issues such as: who has the right to observe, the rights of election observers, accreditation, the time(s) of election observation (before, during and after election day), relations between the electoral commissions and the observers, the role of election observation reports for electoral commissions, the training of observers. Particular reference was made to the guidelines on an internationally recognised status of election observers adopted by the Venice Commission (CDL-AD(2009)059).

10th European Conference of Electoral Management Bodies: "The Code of Good Practice in Electoral Matters: strengths and potential developments" (Chişinău, 26-27 June 2013)

The 10th Conference of Electoral Management Bodies, jointly organised by the Venice Commission and the Central Election Commission of Moldova, was held on 26 and 27 June 2013 in Chişinău.

At the opening of the conference, Mr Nicolae Timofti, President of the Republic of Moldova, encouraged the strengthening of independent and efficient electoral management bodies as a key factor in democratic elections. He also praised the co-operation with the Venice Commission in the electoral field as well as in other fields of reforms.

Opening remarks were also delivered by the Minister of Justice Oleg Efrim, who underlined the fruitful co-operation with the Venice Commission, notably in the context of the reform of the legislation dealing with the financing of political parties and electoral campaigns. The President of the Constitutional Court Alexandru Tănase, Chair of the Rapporteurs' Group on Democracy of the Committee of Ministers and the Polish Ambassador to the Council of Europe Urszula Gacek, as well as the President of the Constitutional Court of Hungary, also a member of the Venice Commission, Péter Paczolay, reiterated the prominence of Europe's electoral heritage as the pillars of and pre-conditions for free and fair elections.

More than 100 participants, including representatives from 26 countries, joined the event. Other relevant bodies in the electoral field were represented such as the European Union, the Organisation for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR), International Institute for Democracy and Electoral Assistance (IDEA), international NGOs and companies.

The main issues discussed during the conference were European and domestic case law with respect to Article 3 of Protocol 1 to the European Convention on Human Rights, the funding of electoral campaigns and political parties as well as the improvement of the functioning of electoral management bodies to increase public confidence.

In their conclusions, the participants agreed *inter alia* on the following:

- the importance of the Code of Good Practice in Electoral Matters as an internationally recognised document in the electoral field;
- the importance of public trust in any electoral process aimed at ensuring free and fair elections;
- the importance for any domestic electoral legislation to:
 - strengthen transparency in the funding and its sources;
 - ensure the equality of all political stakeholders with regard to funding;
 - increase accountability, including by the means of sanctions;
 - strengthen public confidence in this respect;
- the importance of the Code of Good Practice in Electoral Matters as an effective tool for further improving the functioning of electoral management bodies.

Studies and reports

Method of nominating candidates within political parties

In 2012, the Council for Democratic Elections and the Venice Commission adopted the "Report on Measures to Improve the Democratic Nature of Elections in Council of Europe member states" (CDL-AD(2012)005rev). This document pointed out that democratic standards applicable to Europe's electoral heritage were "in greater or lesser detail, in the legislation of Council of Europe member states". It recognised, however, that practice showed a more complex reality. The question of the methods adopted by political parties in the selection process of candidates was identified among those issues which needed further development and study. At the

Council for Democratic Elections meeting in December 2012, it was decided to launch the study.

This study will have to deal, from a general perspective, with the issue of finding a balance between, on the one hand, the scope of autonomy granted to political parties under the principle of freedom of association and their self-governance and, on the other hand, the degree of external constraints and regulations. Therefore, there are many questions which have to be addressed, such as the criteria for nominating candidates, including gender quotas; representation of minorities, youngsters and vulnerable groups; procedural aspects, including the legislative and internal party rules in the field, and the level of transparency of the selection.

A questionnaire was prepared. Unlike other questionnaires previously adopted by the Council on Democratic Elections, this one was addressed not only to the state, but also to political parties. At the state level, there were several questions focusing on the regulatory level of norms on nomination of candidates; the establishment of gender quotas in the law; the rules regarding minorities and the penalties for not complying. Among the 10 questions regarding political parties, some concerned the rules for contesting an irregular nomination of candidates; the inclusion of meritocratic principles; the role of electoral management bodies, etc. Based on an analysis of the replies received, the report will be prepared for adoption in 2014.

Report on the misuse of administrative resources during electoral processes (CDL-AD(2013)033)

After more than 20 years of election observation in Europe and more than 10 years of legal assistance to the Council of Europe member states, many improvements have been observed in electoral legislation and practice. However, the practical implementation of electoral laws and laws related to political parties (including the financing of political parties and electoral processes) remains

problematic to some extent. One of the most important and recurrent challenges observed in Europe and beyond is the misuse of administrative resources (also known as public resources) during electoral processes.

Considering this widespread phenomenon, the Venice Commission adopted a report on this issue at its December 2013 session.

The core issue was the dividing line between legal use and misuse of administrative resources, regarding for example the financing of political parties or the use of public buildings. The main message of the report was that equal opportunity for all candidates should be firmly guaranteed. Among Venice Commission member states there were inherent weaknesses in legislation and in practice that might lead to the misuse of administrative resources, potentially giving an undue advantage to incumbent political parties and candidates compared with their challengers. Such undue advantage directly affects the equality of electoral processes and the freedom of voters to form an opinion. The fundamental principles of transparency – in electoral processes – and of freedom of information were also considered in the report as preconditions for preventing the misuse of administrative resources.

3. Other activities

6th Global Elections Organisation (GEO) Conference and A-WEB Inaugural Assembly

On 15 to 17 October 2013, the Venice Commission took part in the 6th Conference of the Global Elections Organisation (GEO) and the Inaugural Assembly of the Association of World Electoral Management Bodies (A-WEB) which took place in Seoul.

VOTA, the Venice Commission's electoral database

The VOTA database was set up in 2004 as part of the joint Venice Commission and European Commission programme “Democracy through Free and Fair Elections”. It contains the electoral legislation of the Venice Commission's member states and other states involved in the Commission's work. Over 100 laws and statutes from about 50 states, as well as Venice Commission opinions in the field of elections, are already available in the database, in English, French and Spanish (www.venice.coe.int/VOTA). This database is now jointly managed with the Electoral Tribunal of the Judicial Power of the Mexican Federation (*Tribunal electoral del poder judicial de la Federación, TEPJF*), which has given technical support to the database, adding new features, as well as indexing and adding documents.

In October 2013, the Commission concluded a specific co-operation agreement with the Electoral Tribunal of Mexico aimed at modernising and designing the “VOTA” database in order to facilitate the access to and the efficiency of the system. Among other improvements, the database from now on will include the electoral legislation of Latin American countries in English and in Spanish.

Throughout the year, different meetings were organised to assist the technical transfer of the database from the Venice Commission to the Electoral Tribunal. In September 2013, a technical meeting was held in Strasbourg to solve user-access problems and establish rules for a uniform indexation process of electoral legislation. A bridge to the CODICES database will be added to VOTA in order to give users the possibility to search case law in the electoral field. In November 2013, an additional meeting with the Inter-American Union of Electoral Organisations (UNIORE) focused on providing information to Latin American countries so that

they could join the new project. Informal agreements were concluded with Canada and Brazil as part of data-exchange co-operation.

Lecture on electoral issues

On 19 April 2013, at the invitation of the European Law Students' Association in Georgia (ELSA-Georgia), an election expert and a member of the secretariat delivered a lecture on “New technologies and social media versus the European Electoral Heritage” at Tbilisi State University.

4. International co-operation in the electoral field and political parties

Co-operation with the European Union and other inter-governmental organisations is dealt with in Chapter VI.

Association of European Election Officials (ACEEEO)

On 12 to 14 September 2013, the Venice Commission took part in the 22nd Annual Conference of the Association of European Election Officials (ACEEEO), dedicated to “the role of information and communication technology and social media in elections”. The Venice Commission representative took part in the discussion on “The European Electoral Heritage and social media in elections”.

Inter-American Union of Electoral Organisations (UNIORE)

In November 2013, a meeting was organised with UNIORE which focused on providing members of the organisation from Latin American countries with information on the new database of electoral legislation VOTA.

International Foundation for Electoral Systems (IFES)

The Commission actively co-operated with IFES in Tunisia (see Chapters IV and V).

International Organisation for Standardisation (ISO)

In March 2013 the Venice Commission was accepted as a Category A Liaison to the working group discussing ISO 17582, that is, the draft quality management standard directed for electoral bodies. Category A Liaisons are organisations that make an effective contribution to the work of a committee or subcommittee of the ISO. The Commission participated in the technical committee preparing this standard. The required two-thirds votes for adopting the draft standard were not attained. It was therefore proposed to adopt it as a technical specification or a publicly available specification. The decision will be taken in 2014.

Organisation of American States (OAS)

Based on the memorandum of understanding between the Secretariat General of the Council of Europe and the General Secretariat of the Organisation of American States (OAS) signed on 19 September 2011 in New York, the Venice Commission has developed a regular exchange of views with OAS. Representatives of this organisation were invited to attend the meeting of the Sub-Commission on Latin America of the Venice Commission which took place in October 2013 in Mexico City. The Commission and the corresponding services of the OAS plan to organise a regular exchange of information (initially in the electoral field) between European and Latin American experts in 2014. Representatives of the OAS participated in the International Conference on the Implementation of Human Rights Treaties at the domestic level co-organised by the Venice Commission.

Activities in the electoral field outside Europe are discussed in Chapter V.

Co-operation in the Council of Europe neighbourhood and outside Europe

V. Co-operation in the Council of Europe neighbourhood and outside Europe⁷

In 2013 the Venice Commission continued its successful co-operation with its non-European partners, in particular in the southern Mediterranean and in Central Asia.

1. Mediterranean Basin

Co-operation with the states in the Mediterranean Basin continued throughout 2013. The need to reform state institutions in accordance with international standards was confirmed by the implementation of projects with Morocco, Tunisia and Jordan. The Venice Commission co-operated successfully with the National Constituent Assembly of Tunisia by providing an opinion on the draft new constitution. The text adopted in January 2014 takes into account the recommendations contained in the Venice Commission's opinion. Co-operation with the Moroccan authorities focused in particular on legislation in the human rights field and the consolidation of the rule of law. Multilateral activities involving various countries in the region showed the increased interest of other states in co-operating with the Venice Commission on a regular basis, in particular Egypt, Lebanon and Libya.

Egypt

In March 2013, the Egyptian authorities requested an opinion from the Venice Commission on the draft law on civic work organisations of Egypt. Representatives from the Egyptian authorities participated in exchanges of views with the Commission at its 95th Plenary Session which took place in Venice on 14 and

15 June 2013. The interim opinion was adopted by the Commission (CDL-AD(2013)023) and forwarded to the authorities.

In September 2013, the Egyptian authorities informed the Venice Commission that they were interested in continuing co-operation, in particular concerning the process of revision of the constitution. The Venice Commission continued its dialogue with the Egyptian authorities in October and November 2013, in particular concerning the work of the Committee of 50 on the new constitution.

Jordan

In September 2013, the Commission started co-operation with the Constitutional Court of Jordan in the framework of a specific co-operation programme in the field of constitutional justice.

In October 2013, representatives from Jordan participated for the first time in a meeting of the Joint Council on Constitutional Justice.

On 27 November 2013, the Venice Commission organised, in co-operation with the Constitutional Court of Jordan, a seminar on preliminary requests before Constitutional Courts.

Libya

In 2013, the Venice Commission continued its dialogue with the Libyan authorities in particular following a request from the General National Congress of Libya in 2012 to support the work towards developing a constitution for a new democratic Libya.

7. Some activities in the field of constitutional justice are dealt with in Chapter III.

Morocco

Co-operation with the Moroccan authorities in 2013 mainly focused on assistance in the preparation of organic laws foreseen by the 2011 constitution. The Commission also co-operated with the Office of the Mediator of Morocco.

Request for assistance in establishing the authority responsible for equality and the fight against discrimination and the Consultative Council for the family and children

Following a request made to the Venice Commission in October 2012 by Ms Hakkaoui, Minister for Solidarity, Women, the Family and Development with a view to establishing the authority responsible for equality and the fight against discrimination, and the consultative council for the family and children, two bodies provided for under the Moroccan Constitution, informal opinions on two draft laws, prepared in close co-operation with experts from ECRI and from DGII, were sent to the Moroccan authorities in October 2013.

Request for assistance in preparing two draft laws on the status of judges and on the High Judicial Council of Morocco

In October 2013, the Minister of Justice of Morocco requested the Council of Europe's assistance in preparing two organic laws concerning the High Judicial Council and the status of judges. The Venice Commission intends to develop this co-operation during the first part of 2014 in collaboration with the CEPEJ.

Co-operation with the Office of the Mediator

During 2013, the Venice Commission also continued its co-operation with the Office of the Mediator of Morocco. Since the authorities wished to continue to receive support in this field, the Venice Commission contributed to the 11th training session for staff of the institutions, members

of the Association of Ombudsmen and Mediators of la Francophonie (AOMF) (*L'Association des Ombudsmans et des Médiateurs de la Francophonie*), held in Rabat on 9 to 11 April 2013. This activity was financed within the framework of the European Union/Council of Europe programme for the southern Mediterranean. The 4th training session for staff of the ombudsmen, members of AMOF, was held in Rabat on 22 and 23 November 2013 on the theme "The role of the ombudsman in simplifying administrative procedures and access to public services".

Tunisia

During 2013, the Venice Commission co-operated with the National Constituent Assembly of Tunisia (NCA) on the preparation of the new constitution adopted in January 2014, by giving an opinion in October 2013. Co-operation with the Tunisian authorities also took place in the framework of the reform of the Judiciary.

Co-operation with the National Constituent Assembly

Following exchanges which took place in 2012 and the establishment of an excellent relationship between the members of the Venice Commission and representatives of the National Constituent Assembly of Tunisia, on 3 June 2013 the President of the NCA, Mr Mustapha Ben Jaafar, requested the Venice Commission's opinion on the draft constitution.

On 18 July 2013, the Venice Commission published the comments made by 10 of its experts on the draft Constitution of Tunisia. Following discussion by the whole Commission of these comments and of these developments in the preparation of the constitution, the Venice Commission adopted its opinion on the draft Constitution of Tunisia at its October 2013 plenary session. The text of the new constitution adopted by the NCA on 26 January 2014 contains a large number of the Venice Commission's recommendations.

Justice

The success of the Venice Commission's co-operation with the Tunisian authorities in the constitutional field during 2013 had a very positive impact on the co-operation in other fields, such as reform of the judiciary and the improvement of electoral legislation and practice.

On 13 and 14 March 2013, Venice Commission representatives took part in a symposium entitled "Working Together for a justice reform that takes into account the applicable international standards", organised in the framework of "Days of dialogue and reflection on the independence of the judiciary in Tunisia on the eve of the adoption of the Constitution". The subjects dealt with at this symposium concerned the reform of the judiciary in Tunisia, legal framework of the independence of justice in Tunisia and taking stock of the reform of justice in Tunisia since the revolution.

The Commission hopes that, following the adoption of the new Constitution of Tunisia in January 2014, co-operation in the field of reform of the judiciary will increase.

Electoral issues

In 2013, fruitful exchanges of views took place between the Venice Commission and the Tunisian authorities in the electoral field. Following these exchanges, the Venice Commission intends to assist the Tunisian authorities during 2014 in carrying out the reform of electoral legislation and practice. The Venice Commission also co-operated actively with the OSCE/ODIHR,⁸ UNDP, IFES and the Carter Centre.

8. See Chapter II p. 16 of the Joint Opinion on the Law No. 2008-37 of 16 June 2008 relating to the Higher Committee for Human Rights and Fundamental Freedoms of the Republic of Tunisia (CDL-AD(2013)019).

Regional co-operation

During 2013, the Venice Commission organised two intercultural workshops on democracy which enabled lawyers, politicians and academics from different Arab countries and their European colleagues to hold fruitful exchanges of views on subjects such as constitutional reforms and their implementation as well as freedom of association and political parties.

The second intercultural workshop on democracy was held in Marrakech on 12 and 13 May 2013 on the theme "The New Constitutionalism in the Arab World: The Process of Constitution-Making in a Changing Environment". This activity brought together constitution drafters from Algeria, Egypt, Jordan, Libya, Mauritania, Morocco and Tunisia who exchanged their experiences in the field of constitutional reform. Amongst other themes, they compared the approaches used in the revision of their respective constitutions, as well as the drafting and adoption procedures and the implementation of constitutional provisions through new legislation. This seminar took place in the framework of the European Union programme "Strengthening Democratic Reform in the Southern Neighbourhood" and received support from the Ministry of Foreign Affairs of Norway and from the Hanns-Seidel Foundation.

The third intercultural workshop on "Political parties – Key factors in the political development of democratic societies" was organised on 18 and 19 October 2013 in Bucharest by the Venice Commission and the Ministry of Foreign Affairs of Romania. Representatives from national parliaments and academics from Algeria, Egypt, Jordan, Iraq, Lebanon, Morocco, Palestine National Authority, Tunisia and Yemen met to exchange their experiences in the field of international standards and national legislation and practice in the field of political parties.

2. Central Asia

In 2013, the Venice Commission continued its fruitful co-operation with several countries in Central Asia. Activities were carried out mostly in the framework of two projects: “Supporting constitutional Justice, access to justice and electoral reform in the countries of Central Asia” and “Support to the Kyrgyz authorities in improving the quality and efficiency of the Kyrgyz constitutional justice system”. Both projects are implemented by the Venice Commission with funding provided by the European Union.

The project “Equal before law: access to justice for vulnerable groups” funded by the Ministry for Foreign Affairs of Finland which started in 2012 was completed before the official ending date by mutual consent with the Ministry for Foreign Affairs of Finland. The Commission and the ministry concluded a new agreement which, as from 1 March 2013, reallocated the remaining funds as a contribution to a new joint project with the European Union in Central Asia. This new joint project “Supporting constitutional justice, access to justice and electoral reform in the countries of Central Asia” will run until spring 2015. It offers tools for Central Asian countries (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) to carry out the reform of their legal systems, notably in such fields as constitutional justice, electoral administration and access to justice, in line with applicable international human rights standards. Different activities will include information about the European Convention on Human Rights and the case law of the European Court of Human Rights.

Since 2009, the Venice Commission has established very good co-operation with the national institutions of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, notably in the framework of the projects funded by the European Union. 2013 was marked by the involvement of Turkmenistan in co-operation with the Venice

Commission. Another positive development concerned the growing willingness of the countries of the region to request formal opinions from the Venice Commission on their draft legislation (notably Kyrgyzstan and Tajikistan).

Kazakhstan

Round Table on the “Reform of the Criminal Code of Kazakhstan based on the principles of rule of law”

Following a request from the authorities of Kazakhstan, the Venice Commission contributed to the round table on the “Reform of the Criminal Code of Kazakhstan based on the principles of rule of law”, organised by the Constitutional Council of Kazakhstan and the Office of the Prosecutor General which took place in Almaty from 15 to 16 March 2013. The main objective of this activity was to discuss the draft code of criminal procedure and to provide the drafters with recommendations based on the European experience. This event was a starting point for involving the Venice Commission in a dialogue between the authorities and the different international organisations on the reform of criminal procedure legislation, in particular, with the OSCE, UNDP and the EU. Additional exchanges of views with representatives of the authorities and national MPs on the draft code are planned for February 2014.

Conference “The Constitution - a basis of strategy of development of society and the State”

The President of the Venice Commission also took part in “August readings” (Astana/Borovoe, 28-29 August 2013), an annual event of the Constitutional Council of Kazakhstan aimed at promoting the rule of law in the country. The conference was a real forum for exchange of experience between constitutional lawyers from Kazakhstan, CIS countries and their colleagues from western Europe.

Kyrgyzstan

Co-operation with the Constitutional Chamber of Kyrgyzstan

In 2013, the Venice Commission started co-operation with the authorities of the Kyrgyz Republic in the framework of a separate project “Support to the Kyrgyz authorities in improving the quality and efficiency of the Kyrgyz constitutional justice system”. The Constitutional Chamber of Kyrgyzstan had been established by the 2011 constitution but it could not start its work for procedural reasons. It started its work in July 2013, following changes in legislation on constitutional justice.

The new 18-month long project aims at supporting the newly established Constitutional Chamber of the Kyrgyz Republic by making available the Venice Commission’s unique expertise in the field of constitutional justice. The chamber, which is composed of lawyers with no previous experience in the field of constitutional justice, requested international assistance in organising its work on the basis of international standards and best international practices.

The project had a very good start. On 13 to 15 November 2013 the Venice Commission organised jointly with the UNDP office in Bishkek an orientation seminar for the Constitutional Chamber of the Kyrgyz Republic in Kalmak-Ashu. The seminar was aimed at judges, experts and staff of the Constitutional Chamber of the Kyrgyz Republic and pursued the objective of sharing the experience of different Constitutional Courts in order to assist the Constitutional Chamber to organise its work in an efficient manner. The participants discussed the role and functions of the chamber, as well as its structure and rules of procedure and its interaction with different state bodies and media. This activity also enabled the project partners to get together and to discuss the work plan for 2014 as well as to agree on the working methods to be used in implementing different activities.

As a follow-up to the November event the Commission organised another seminar in Bishkek on 11 and 12 December 2013. This second event was aimed at developing the communications strategy of the Constitutional Chamber of the Kyrgyz Republic. Seven out of nine judges discussed the experience of different Constitutional Courts, in particular Romania and Georgia. The Venice Commission experts provided the Constitutional Chamber with recommendations for enhancing its work in public outreach.

The President of the Constitutional Chamber of the Kyrgyz Republic, Mr Mukambet Kasymaliev, took part in the Venice Commission’s plenary session on 6 and 7 December 2013 in Venice. Mr Kasymaliev informed the Commission that the Constitutional Chamber, although it had been formally established in July 2011, only started functioning in July 2013. However, it had already received a great number of complaints from individuals, legal persons and state bodies of the Kyrgyz Republic and the number of new applications was constantly increasing. The chamber was examining several important cases on taxation, social conflicts and human rights. The president of the chamber stressed the willingness of the authorities to intensify their co-operation with the Venice Commission.

The Constitutional Chamber of Kyrgyzstan joined the World Conference on Constitutional Justice in December 2013.

Opinion on the draft law amending the Law on Non-commercial Organisations of the Kyrgyz Republic (CDL-AD(2013)030)

In the framework of another regional project in Central Asia, the Commission provided an opinion on the draft legislation of the Kyrgyz Republic on non-commercial organisations. The request was made by the Chairman of the Human Rights, Constitutional Legislation and State Structure Committee of the Parliament of the Kyrgyz

Republic. The Venice Commission, jointly with the OSCE/ODIHR, studied the draft law “on introducing amendments and changes into some Legislative Acts of the Kyrgyz Republic”, notably the Law on Non-commercial Organisations and other legislative acts of the Kyrgyz Republic. The Commission found that the draft law under consideration represented a serious limitation of several fundamental rights such as the right to freedom of association and of expression. Unfortunately, in the light of the short time available, the Venice Commission and the OSCE/ODIHR did not have an opportunity to discuss these interim findings with the Kyrgyz authorities, and therefore declared that their final position would be taken after such discussion had taken place. An interim joint opinion was adopted at the October 2013 session.

In 2014, the Venice Commission will continue its cooperation with Kyrgyzstan in the framework of the two EU funded projects. A number of concrete activities will be organised in the Kyrgyz Republic in the first half of 2014.

Tajikistan

In 2013, the Commission published the reports and recommendations of the conference “Guaranteeing women’s rights and improving mechanisms of access to justice for vulnerable groups”, which had been organised by the Commission on 13 and 14 November 2012 in Dushanbe. This publication was printed in Dushanbe and made available to the conference participants and all interested parties.

Opinion on the draft code of judicial ethics (CDL-AD(2013)035)

On 17 September 2013, the Venice Commission received a request for an opinion on the draft code on judicial ethics from Mr Zafar Azizov, President of the Judicial Council of Tajikistan. It was the first request for an opinion by Tajikistan and an important and positive step for the independence of the judiciary of this country.

A Venice Commission delegation visited Dushanbe on 18 and 19 November 2013 and met with the representatives of the Judicial Council, the committee on legislation and protection of human rights of the Majlisi Namoyandagon of the Majlisi Oli (lower chamber of parliament), the High Commercial Court, the General Prosecutor’s Office, the Ministry of Justice, the Constitutional Court, the Supreme Court and the Working Group on the Code of Judicial Ethics.

The opinion, adopted at the December 2013 session, clearly set out that it was important to note that a code of ethics could not be seen as replacing the constitutional and legal provisions on the judiciary based on the principle of the rule of law. It was therefore important that the draft code be considered within the context of the Constitution of Tajikistan and other laws applicable in this area. In particular, it was important that procedural principles on the relationship between ethical standards and disciplinary provisions be established by the law.

The code of ethics was adopted by the Conference of Judges of Tajikistan at the end of November 2013. The Venice Commission was informed that although the code had been adopted before the opinion was finalised, the latter would still be of invaluable assistance in the development of the judiciary’s professionalism in Tajikistan.

The authorities of Tajikistan informed the Commission about their intention to request additional opinions on draft laws in 2014.

Draft law on mediation

Another exchange of views was organised following a request made by the Judicial Training Centre to the Judicial Council of the Republic of Tajikistan to provide expert comments on the draft law on mediation. A Venice Commission delegation met with the members of the working group on the draft law on mediation on

18 and 19 November 2013. The meeting was followed by a round table on mediation on 20 November 2013. The expert comments were translated into Russian and made available to the working group. The Commission will continue its co-operation with the Tajik authorities to further elaborate the law and to have new exchanges of views with the interested parties.

Turkmenistan

Following contacts between the Venice Commission, the Ministry of Foreign Affairs of Finland and the Ministry of Foreign Affairs of Turkmenistan, a round table on “The efficiency of the judiciary and access to justice as the key elements of the Rule of Law” took place on 9 April 2013 in Ashgabat. Participants in this meeting included members of parliament, representatives of the Ministry of Justice, the Supreme Court and the Institute for Democracy and Human Rights. On this occasion, a possible co-operation programme with the Venice Commission was also discussed.

The Turkmen authorities expressed their interest in co-operating with the Venice Commission. However, an activity planned at the end of 2013 on judicial ethics and discipline was postponed until February 2014 at the request of the authorities.

Uzbekistan

On the occasion of the 65th anniversary of the adoption of the Universal Declaration of Human Rights and the 20th anniversary of the Vienna Declaration and Programme of Action, the authorities of Uzbekistan invited the Venice Commission to take part in a conference on “The role and place of the national system for the protection of human rights during the country’s modernisation: international practice and experience of Uzbekistan”. This conference was organised by

the National Human Rights Centre of the Republic of Uzbekistan on 24 and 25 October 2013 in Tashkent.

The conference brought together representatives of national institutions as well as guests from the UNDP, the OSCE, China, France, Germany, the Republic of Korea, Slovakia and the USA who exchanged their experiences on international standards and national legislation and practice in the field of defending human rights.

Regional co-operation

A regional training course on access to justice for women, children and persons with disabilities took place on 23 to 25 April 2013 in Almaty. This event was aimed at professionals working with women, children and persons with disabilities, at NGO representatives and at representatives of the judiciary of the four Central Asian states of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. The aim of the training event was three-fold: to raise awareness and to promote both the rights of groups that are easily excluded and discriminated against and their equal opportunities for participation; to present good practices in implementing internationally agreed standards to safeguard children’s rights, women’s rights and the rights of persons with disabilities; to facilitate co-operation and the exchange of information and good practices within the relevant bodies in Central Asia in the field of the protection of human rights, access to justice and the rule of law.

Multilateral co-operation

Two representatives from Kyrgyzstan and Tajikistan attended the 10th European Conference of Electoral Management Bodies which took place in Chişinău on 26 and 27 June 2013 (see Chapter IV).

Two judges from the newly elected Constitutional Chamber of the Kyrgyz Republic took part in the

conference on “The European Legal Standards of the Rule of Law and the Scope of Discretion of Powers in the Member States of the Council of Europe” in Yerevan, Armenia on 3 and 4 July 2013 (see Chapter II)

Representatives of Kazakhstan, Kyrgyzstan and Tajikistan took part in the 12th meeting of the Joint Council on Constitutional Justice that took place in Venice, Italy on 9 October 2013 (see Chapter III).

Other activities in Central Asia

Outside the electoral assistance programme in Kazakhstan, the Commission continued its co-operation in other areas with the countries of Central Asia. A part of its activities had been funded through the joint project between the Venice Commission and the Ministry of Foreign Affairs of Finland “Equal before the law: access to justice for vulnerable groups”.

3. Latin America

Mexico

Opinion on the Electoral Code of Mexico
(CDL-AD(2013)021)

Following a request from the President of the Mexican Federal Electoral Institute (IFE) in February 2012, the Venice Commission and the Council for Democratic Elections adopted, at the June 2013 session, an opinion on the Electoral Code of Mexico. Taking into account that the presidential elections were held in July 2012, it was agreed that the opinion would be issued in 2013, once the electoral and post-electoral campaign period was closed.

The examined legislation included a number of positive elements and had evolved in order to introduce freer and fairer elections in Mexico. Notably, it had reinforced the powers of the IFE and the Electoral Court

of Mexico, established mechanisms for overseeing the public funding of political parties, declared the importance of freedom of expression, distributed equal media time among political parties and ensured a higher presence of women in politics through the establishment of quotas. However, there were several aspects which could be improved, such as simplifying the legislation, which was too complex; reconsidering the ban on the re-election of parliamentarians; establishing the limits on expenditure by political parties in a clearer and more concise manner, avoiding long lists and different categories in the type of expenditure to be considered; clearly defining the scope of the prohibition of electoral campaigning and the position of individuals who are neither candidates nor members of political parties in this respect; reviewing the provisions concerning the prohibition of denigration of political parties or candidates, as they may lead to the censoring of any statements which were critical of the government or call for constitutional change, although this was the very essence of democratic debate. The opinion pointed out that media pluralism should be further improved, as well as the promotion of the participation of minorities in elections. Concerning the annulment of an election, the Commission recommended reviewing the percentage of invalid votes required for annulling congressional and senatorial elections and to make them coherent. Annuling presidential elections should be made possible in the case of substantial violations on the polling day.

The question of reducing the leadership of political parties, either in proportional or in plurality systems, was debated in the light of the Mexican specificity concerning the ban on the re-election of members of parliament. An electoral legal reform was launched in the Mexican Parliament in June 2013 and the Venice Commission opinion was used in the discussion of the different proposals.

International congress on the implementation of international human rights treaties in national legislation, focusing in particular on electoral rights (Mexico City, 23-25 October 2013)

More than 900 people attended this conference, including representatives of political parties and the civil society, students and other actors. The congress was launched along with the ongoing study, in co-operation with the Venice Commission, on the implementation of international treaties on human rights in domestic law. Twelve discussion panels included concrete case studies. The seminar was successful in promoting European constitutional heritage and in deepening the debate between different democratic traditions.

Meeting on the Sub-Commission on Latin America (Mexico City, 24 October 2013)

This was the first meeting of the Sub-Commission on Latin America to take place outside Venice. Bolivia, Costa Rica, Colombia, Uruguay and Venezuela, as well as representatives of the Organisation of American States (OAS) attended the event.

The meeting focused on the different possibilities for co-operation with Latin American countries which were not members of the Commission. Representatives of the Constitutional and Supreme Courts present were invited to join the World Conference on Constitutional Justice. OAS made a presentation on the new working group in the electoral field created in 2010 by the Electoral Courts of Argentina, Brazil, Chile, Costa Rica, Ecuador, Mexico, Panama, Peru and the Dominican Republic. OAS proposed to continue regular exchanges of views with the Sub-Commission on Latin America in 2014.

Finally, the working agenda for 2014 was discussed. It was suggested that a new comparative study be prepared on the effectiveness of human rights treaties. Ms Rocha

Antunes, President of the Electoral Court of Brazil, offered to host a conference on this topic in May 2014, in Ouro Preto, Brazil. The next Sub-Commission meeting could take place after the conference.

Co-operation on the VOTA database

See Chapter IV, p. 56.

Peru

International conference on Individual access to Constitutional Justice (Arequipa, Peru, 30-31 May 2013)

A Venice Commission delegation participated in the International Conference on Individual Access to Constitutional Justice, held in Arequipa, Peru. Constitutional Courts and/or Supreme Courts of Argentina, Brazil, Bolivia, Chile, Colombia, the Dominican Republic, Ecuador, Guatemala, Paraguay, Peru, Uruguay and Venezuela were represented and the debates were very lively and enriching. The Venice Commission Report on Individual Access to Constitutional Justice (CDL-AD(2010)039rev) was used to open the conference and as a feedback for the discussions. The most debated topics concerned the types of remedies at the constitutional level; vulnerable groups and constitutional justice; complying with international standards and the international human rights courts' case law and effects of constitutional judgments.

Follow-up to an opinion

On 7 June 2011, the Constitutional Court of Peru had requested the Venice Commission to submit an amicus curiae brief on the case concerning Santiago Brysón de la Barra. The case related to the riots which had taken place in several prisons in Peru in June 1986 and made reference to the fact that the Inter-American Court of Human Rights had condemned Peru for a disproportionate use of lethal force by the state in the *Durand*

Ugarte v. Peru case. The amicus curiae brief on crimes against humanity was adopted at the October 2011 session (CDL-AD(2011)041).

The Constitutional Court had to decide in this case, among other issues, whether the facts could be qualified as crimes against humanity, which implied that no statutory limitations could possibly be applied in prosecuting this case. In order to decide on this case, the Constitutional Court itself had to pronounce on the qualification of the facts as crimes against humanity, and referred to the Venice Commission's amicus curiae brief prepared in 2011, which gave feedback on the European

practice in cases concerning past crimes against humanity as well as on the present definition of crimes against humanity in international law.

The Constitutional Court decided on 14 June 2013 to partially award the protection requested by Santiago Brysón de la Barra and others, because the ordinary judge had wrongly considered the facts of El Frontón as crimes against humanity. However, the court rejected the rest of the complaint and asked for the continuation of the criminal proceedings opened as part of the requirements of the Peruvian State to fulfil its obligations under international human rights law.

**Co-operation between the Commission and organs and bodies of the Council of Europe,
the European Union and other international organisations**

VI. Co-operation between the Commission and organs and bodies of the Council of Europe, the European Union and other international organisations

1. Council of Europe

Committee of Ministers

Representatives of the Committee of Ministers participated in all four Commission's plenary sessions in 2013. The following Ambassadors, Permanent Representatives to the Council of Europe, attended the sessions (in order of attendance):

- Ambassador Alain Cools, Belgium;
- Ambassador Charles-Edouard Held, Switzerland;
- Ambassador Claus von Barnekow, Denmark;
- Ambassador Matthew Johnson, United Kingdom;
- Consul General Evan G. Reade, Deputy Permanent Observer of the United States of America to the Council of Europe;
- Ambassador Peter Gunning, Ireland;
- Ambassador Gea Rennel, Estonia;
- Ambassador Ferenc Robák, Hungary;
- Ambassador Luís Filipe Castro Mendes, Portugal.

Within the framework of the Chairmanship of the Republic of Armenia in the Committee of Ministers of the Council of Europe and in co-operation with the Constitutional Court of Armenia and the European Court of Human Rights, the Venice Commission organised the Pan-European conference on "the European Standards of Rule of Law and the Scope of Discretionary Powers in the Member States of the Council of Europe" (Yerevan, Armenia, 3-4 July 2013).

The President and the Secretary of the Commission provide information, on a regular basis and at their request,

to various Rapporteur Groups of the Committee of Ministers on the Commission's activities.

Parliamentary Assembly

During 2013, the following members of the Parliamentary Assembly attended the plenary sessions of the Venice Commission:

- Mr Christopher Chope, Chair, Committee on Legal Affairs and Human Rights;
- Mr Mevlüt Çavuşoğlu, Former President of the Parliamentary Assembly;
- Mr Andreas Gross, Chair of the Socialist Group, President of the Council for Democratic Elections.

The Enlarged Bureau of the Commission and the Presidential Committee of PACE met on 7 December in Venice. The situation in a number of member states, including Turkey, and co-operation with North Africa, notably with Tunisia, were discussed. The representatives of the Parliamentary Assembly expressed their full satisfaction with the co-operation between the Venice Commission and the Parliamentary Assembly. The following members of the Presidential Committee participated in the meeting with the Enlarged Bureau of the Venice Commission:

- Mr Jean-Claude Mignon, President of the Parliamentary Assembly;
- Mr Andreas Gross, Chair of the Socialist Group;
- Ms Anne Brasseur, Chair of the Alliance of Liberals and Democrats for Europe;
- Mr Pedro Agramunt, Chair of the Group of the European People's Party;

- Mr Björn von Sydow, Chair of the Committee on Political Affairs and Democracy;
- Mr Andres Herkel, Chair of the Committee on the Honouring of Obligations and Commitments by member states of the Council of Europe (Monitoring Committee).

In 2013, a number of texts were adopted at the request of the Parliamentary Assembly, including the opinions on:

- the Italian legislation on defamation;
- the Constitution of Monaco;
- the Electoral Code of “the former Yugoslav Republic of Macedonia”;
- the law on referendum of Ukraine;
- the draft amendments to the organic Law of Georgia on courts of general jurisdiction, and on the provisions relating to political prisoners in the amnesty law of Georgia.

The 2012 request for an opinion on the amendments of June 2012 to the law on rallies of the Russian Federation was dealt with by the Commission in 2013 as the relevant provisions were pending before the Constitutional Court of the Russian Federation.⁹

In addition, the reports on “the relationship between political and criminal ministerial responsibility” and on “the issue of the prohibition of so-called propaganda of homosexuality” in the light of recent legislation in some Council of Europe member states, including the Republic of Moldova, the Russian Federation and Ukraine, were adopted at the request of the PACE. In 2013 the Commission also continued working on an

9. See Chapter II - Opinion CDL-AD(2013)003 on the Federal Law of the Russian Federation No. 65-FZ of 8 June 2012 amending Federal Law No. 54-FZ of 19 June 2004 on Meetings, Rallies, Marches and Pickets and on the June 2012 amendments.

update of the study on the democratic oversight of the security services adopted in 2007.

The Parliamentary Assembly continued to participate actively in the Council for Democratic Elections created in 2002 as a tripartite organ of the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of the Council of Europe. During 2013 a member of the Parliamentary Assembly, Mr Andreas Gross, chaired the Council for Democratic Elections, and several of its activities were launched at the initiative of the Parliamentary Assembly representatives.

In accordance with the co-operation agreement concluded between the Venice Commission and the Parliamentary Assembly, representatives of the Commission participated in PACE election observation missions in Albania, Armenia, Bulgaria, Georgia and Montenegro.

The President, the Secretary and the Deputy Secretary of the Commission provide information, on a regular basis, to the various Assembly Committees concerning their requests to the Venice Commission.

Congress of Local and Regional Authorities

Mr Lars O. Molin, Chair of the Monitoring Committee of the Congress, represented the Congress at the plenary sessions of the Commission in 2013.

The Congress also continued to participate in the Council for Democratic Elections, established in 2002 as a tripartite body of the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe.

European Court of Human Rights

In 2013, the European Court of Human Rights continued to refer to the work of the Venice Commission in

its judgments. Among the nine recent cases where the documents of the Commission are mentioned, two concern Russia and the others Azerbaijan, Bosnia and Herzegovina, Hungary, Lithuania, Serbia, Ukraine and the United Kingdom.

In the case of *Kudrevičius and others v. Lithuania* (Application No. 37553/05) the Court cites the Venice Commission's 2012 compilation of opinions concerning freedom of assembly, and the 2008 joint Guidelines on freedom of peaceful assembly by the Venice Commission and the OSCE/ODIHR. The second edition of the OSCE/ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly (CDL-AD(2010)020) was also referred to in the case of *Vona v. Hungary* (Application No. 35943/10). The opinion interpreting the OSCE/ODIHR guidelines on drafting laws on freedom of assembly (CDL-AD(2005)040) was referred to in the case of *Vyerentsov v. Ukraine* (Application No. 20372/11).

The Court referred to the Opinion on the Federal Law on Combating Extremist Activity of the Russian Federation (CDL-AD(2012)016) in the case of *Kasymakhunov and Saybatalov v. Russia* (Applications Nos. 26261/05 and 26377/06).

The Opinion on the existing mechanism to review the compatibility with human rights standards of acts by UNMIK and EULEX in Kosovo¹⁰ (CDL-AD(2010)051) and the Opinion on human rights in Kosovo: the possible establishment of review mechanisms (CDL-AD(2004)033) were referred to by the Court in the decision concerning the case of *Azemi v. Serbia* (Application No. 11209/09).

The Venice Commission's Opinions on the constitutional situation in Bosnia and Herzegovina and the powers

10. All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

of the High Representative (CDL-AD(2005)004) and on legal certainty and the independence of judiciary in Bosnia and Herzegovina (CDL-AD(2012)014) were cited in the judgment in the case of *Maktouf and Damjanović v. Bosnia and Herzegovina* (Applications Nos. 2312/08 and 34179/08).

The Code of Good Practice in Electoral Matters of 2002 and its explanatory report was cited in the cases of *Anchugov and Gladkov v. Russia* (Applications Nos. 11157/04 and 15162/05) and in *Shindler v. the United Kingdom* (Application No. 19840/09). In the latter judgment, other documents of the Commission in the field of elections were also extensively referred to including:

- Guidelines on Elections (CDL-AD(2002)013);
- Reports on the abolition of restrictions on the right to vote in general elections (CDL-AD(2005)012 and CDL-AD(2005)011);
- Opinion on the PACE's Recommendation 1714 (2005) on the abolition of the restrictions on the right to vote (CDL-AD(2005)031);
- Report on Electoral Law and Electoral Administration in Europe (CDL-AD(2006)018);
- Report on out-of-country voting (CDL-AD(2011)022).

World Forum for Democracy

A member of the Venice Commission participated in the second edition of the World Forum for Democracy, which took place from 27 to 29 November 2013 in the Council of Europe premises in Strasbourg, and brought together more than 1000 participants and speakers from over 100 countries.

2. European Union

In 2013, the co-operation between the Venice Commission and the European Union intensified considerably, especially with the European Parliament and the Commissioner on Enlargement and European Neighbourhood Policy. The Venice Commission maintained regular and frequent high-level and working level contacts with the European Union, in particular with respect to constitutional issues in Bosnia and Herzegovina, the Republic of Moldova, Romania, Turkey and Ukraine as well as in the Arab countries.

The EU Commissioners for Human Rights, for Enlargement and Eastern European Neighbourhood Policy along with the Special Representatives in Bosnia and Herzegovina and in Kosovo* sought the advice of the Venice Commission on questions pertaining to their mandates.

The President made known the main Venice Commission activities and exchanged views with government representatives in the EU Committee for co-operation with the Council of Europe and the OSCE (COSCE) held in Brussels on 17 May and 13 December 2013.

European Parliament

In its Resolution of 12 December 2012 on the situation of fundamental rights in the EU (2010-2011), the European Parliament “calls for closer co-operation between Union institutions and other international bodies, particularly with the Council of Europe and its European Commission for Democracy through Law (Venice Commission), and to make use of their expertise in upholding the principles of democracy, human rights and the rule of law”.

In 2013, the President of the Venice Commission and other representatives participated in meetings and

consultations organised by the European Parliament on Hungary, the Republic of Moldova, Turkey, Ukraine and the Arab countries.

On 24 January 2013, in Brussels, the Deputy Secretary of the Venice Commission acted as a moderator at the exchange of views on “Being a woman in politics: the cross-experience of women MPs from Morocco, Algeria, Tunisia and Libya” at the Joint Meeting of the Committee on Political Affairs, Security, and Human Rights and the Committee on Women’s Rights in Euromed countries of the Euro-Mediterranean Parliamentary Assembly.

The Turkish constitutional process was addressed by the President of the Venice Commission at the 71st and 72nd meetings of the Joint Parliamentary Committee Turkey-EU on 14 and 15 February 2013 in Ankara and on 27 June 2013 in Brussels. The president also held meetings with MEPs (Rapporteur on Turkey, Chairman of the Monitoring Group on the situation in the southern Mediterranean, other MEPs) on the Turkish constitutional process and developments in Cyprus, on the situation in Tunisia and Libya (12-13 March 2013, Strasbourg).

Meetings at the European Commission and a presentation by the President of the Venice Commission at a European Parliament hearing on Hungary were held on 16 and 17 May 2013 in Brussels.

The Chairman of the EP’s Foreign Affairs Committee held meetings with the representatives of the Venice Commission on the legal situation in the Republic of Moldova and Ukraine on 22 May 2013 in Strasbourg.

Co-operation with other EU institutions

Technical consultations with the European Commission were held on the developments in the Balkans, the Republic of Moldova, Turkey and Ukraine as well

as in Central Asia and North Africa. The European Union repeatedly invited states to follow the Venice Commission's recommendations.

The Venice Commission co-operated with the European Commission within the framework of the EU-Bosnia and Herzegovina Structured Dialogue on Justice (see above Chapter III.1, under Bosnia and Herzegovina). The European Commission welcomed the opinion on the draft law on the courts of Bosnia and Herzegovina (CDL-AD(2013)015) as an important contribution to the EU-Bosnia and Herzegovina Structured Dialogue on Justice, the aim of which was to ensure that the laws on the judiciary in Bosnia and Herzegovina be harmonised in line with European standards. In this respect, a set of technical recommendations were adopted by the European Commission, which included those made by the Venice Commission in its opinion.

Throughout 2013 the Deputy Secretary of the Commission participated as a legal adviser in the negotiations facilitated by the EU concerning the execution by Bosnia and Herzegovina of the *Sejdić and Finci* judgment by the European Court of Human Rights.

At the end of 2013 the EU Special Representative in Kosovo requested the Venice Commission's opinion on the draft law on freedom of religion; the relevant opinion is to be adopted in 2014.

The Commission exchanged views regularly with representatives of the European Union as regards legislative reforms relevant to the association agreement between Ukraine and the EU. The electoral reform was launched following the conclusions of the meeting of the Council of the European Union on Ukraine, held in December 2012, which stated that the signature of the association agreement with Ukraine at the end of 2013 would depend on three main reforms: electoral reform, judicial reform and the implementation of the European Court

of Human Rights judgments concerning high-level politicians in prison. The Venice Commission was involved in the assessment of the relevant legislation in Ukraine and also, upon request by the PACE, delivered the report on "the relationship between political and criminal ministerial responsibility".

The Venice Commission participated in the 4th Annual EU Agency for Fundamental Rights Symposium entitled "Promoting the rule of law in the European Union", organised by the EU Agency for Fundamental Rights (FRA) on 7 June 2013 in Vienna.

On 21 and 22 October 2013, the Venice Commission participated in the EU's 8th Western Balkans JAI-NET meeting, which was held in Budva, Montenegro. The delegation presented the work of the Commission in the field of the judiciary and the standards which it had applied in its opinions relating to the western Balkans and Turkey. The President of the Venice Commission attended the "*Assises de la Justice*": "What role for Justice in the European Union?" on 21 November 2013 in Brussels and participated in the panel "Towards a New Rule of Law Mechanism".

In 2013, regular exchanges of views were held with representatives of the Europe and Central Asia Service (EEAS) of the European Commission. In addition, the Venice Commission closely co-operated in 2013 with the EU delegations in countries such as Kazakhstan, Kyrgyzstan, Libya, Morocco and Tunisia while implementing joint Council of Europe - European Union projects.

Representatives of the European Union (from the European Parliament, the Legal Service and DG Enlargement of the Commission, the European External Action Service as well as the President of the Committee for citizenship, governance, institutional and external affairs of the Committee of the Regions) participated in the plenary sessions of the Venice Commission in 2013.

Joint European Union – Council of Europe Projects

Eastern Partnership Facility¹¹

Under the Council of Europe Eastern Partnership Facility programme which aims to provide support to the reform processes in the six partner countries – Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine – in 2013, the Venice Commission continued implementing one of the specific objectives of the programme, namely facilitating co-operation regarding the administration of elections and in particular taking concrete action aimed at the further integration of Council of Europe electoral standards into the legislation and practice of the six beneficiary countries. The programme covers core areas under the EU Eastern Partnership Platform 1 “Democracy, good governance and stability” and is financed by the European Commission.

The following activities took place (see Chapter IV):

- On 17 and 18 April 2013, the Venice Commission co-organised a seminar in Tbilisi with the Central Election Commission of Georgia on “The use of administrative resources during electoral campaigns”;
- On 25 and 26 November 2013, the Venice Commission organised in Strasbourg a seminar devoted to observation of elections.

Seminar on electoral observation

The Venice Commission took part in a seminar organised by the EODS (Electoral Observation and Democratic Support) project on electoral observation (Brussels, 25-26 March 2013). The seminar aimed at discussing current and future challenges facing election observation missions (EOMs), testing ideas for strengthening EOM

members’ knowledge and expertise, and reflecting upon the development of EOMs methodology.

In addition, three joint projects were signed during 2013:

- Support to the Jordanian authorities in improving the quality and efficiency of the Jordanian justice system;
- Supporting constitutional justice, access to justice and electoral reform in the countries of Central Asia;
- Support to the Kyrgyz authorities in improving the quality and efficiency of the constitutional justice system.

For further information on these joint projects please refer to Chapter V above.

3. OSCE

Human Dimension Implementation Meeting (HDIM)

On 26 and 27 September 2013, in Warsaw, the Venice Commission participated in the meetings on freedom of assembly, freedom of association and freedom of religion held in the framework of the OSCE Human Dimension Implementation Meeting (HDIM).

OSCE/ODIHR

Fundamental rights and freedoms

In 2013, the Venice Commission and the OSCE/ODIHR continued the fruitful co-operation developed over recent years in relation to the preparation of joint guidelines in fields of common interest: the 2004 Joint Guidelines for Review of Legislation Pertaining to Religion or Belief, and the 2007 Guidelines on Freedom of Peaceful Assembly, revised in 2010, are in the process of being jointly updated in the light of the most recent developments in these fields. Venice Commission experts have actively participated in

11. Further information on this Joint Programme can be found in Chapter IV.

the OSCE/ODIHR panels on freedom of religion and freedom of assembly and in thematic round tables held in this framework, as well as in the preparation of a good practice report on freedom of religion established through a questionnaire exercise.

These joint guidelines have become a well-known and well-respected reference for the applicable standards and are being quoted increasingly by the European Court of Human Rights (for the Joint Guidelines on freedom of religion see the *case of Sinan Işık v. Turkey* of 2 February 2010; for the Joint Guidelines on Freedom of Assembly see the *case of Vyrentsov v. Ukraine* of 11 April 2013).

In 2013, preliminary steps were also taken with a view to the preparation of joint guidelines on freedom of association.

The Venice Commission and the ODIHR's Advisory Panel have also jointly prepared and submitted comments on the recent EU guidelines on freedom of religion.

The Venice Commission in the framework of its co-operation with the countries of Central Asia and the southern Mediterranean continued to co-ordinate its actions with the OSCE/ODHIR as well as with the OSCE offices in Bishkek and Astana. In November 2013 the two institutions prepared a joint interim opinion on the draft law amending the Law on Non-commercial Organisations and other legislative acts of the Kyrgyz Republic (CDL-AD(2013)030).

The two institutions also worked together on a number of issues related to countries of the Arab Spring. They prepared a Joint Opinion on Law No. 2008-37 of 16 June 2008 relating to the Higher Committee for Human Rights and Fundamental Freedoms of the Republic of Tunisia (CDL-AD(2013)019).

Another important activity co-organised by the two organisations and the Ministry of Foreign Affairs

of Romania was the 3rd Intercultural Workshop on Democracy “Political parties – Key factors in the political development of democratic societies”. This activity brought together representatives of national parliaments and academics from Algeria, Egypt, Jordan, Iraq, Lebanon, Libya, Morocco, Palestine, Tunisia and Yemen who exchanged their experiences on international standards and national legislation and practice in the field of political parties.

Elections, referendums and political parties

During 2013, the Venice Commission continued its close co-operation with the OSCE/ODIHR in the area of elections and political parties. Opinions on the electoral legislation of “the former Yugoslav Republic of Macedonia” and Ukraine, as well as on the legislation on the financing of political parties and electoral campaigns in the Republic of Moldova, were prepared jointly. The OSCE/ODIHR regularly attended meetings of the Council for Democratic Elections.

The Venice Commission took part in the Political Party Expert Seminar organised by the OSCE/ODIHR in Warsaw on 10 and 11 July 2013. During the meeting the participants discussed the latest developments in the OSCE/ODIHR member states in the field of political parties' regulation. This activity was part of the regular exchanges of views in the framework of the OSCE/ODIHR Core Group of Experts on Political Parties.

In 2013, representatives of the OSCE/ODIHR's Legislative Support Unit, Elections and Democratisation Departments attended the plenary sessions of the Venice Commission.

4. United Nations

During the implementation of its co-operation programmes in countries of the southern Mediterranean

and Central Asia in 2013, the Venice Commission was involved in a fruitful dialogue with the UNDP. In countries such as Kyrgyzstan the Commission developed a number of activities with the UNDP including assistance to the Constitutional Chamber of Kyrgyzstan and exchanges of views on issues related to human rights protection. The Venice Commission also co-operated with the UNDP country office in Kazakhstan in relation to reforms underway in the field of justice.

On 22 November 2013, at the Council of Europe in Strasbourg, representatives of the Commission and of the High Commissioner for Human Rights (OHCHR) held consultations on possible ways to improve synergies between the two bodies.

5. Other international bodies

International Association of Constitutional Law (IACL)

The President of the International Association of Constitutional Law and another member attended the plenary sessions of the Commission in 2013.

Constitutional justice and ordinary justice

The Venice Commission co-operates with a number of regional and linguistic groups uniting Constitutional Courts and equivalent bodies both bilaterally and in the framework of the World Conference on Constitutional Justice.

Association of Asian Constitutional Courts and Equivalent Institutions (AACC)

On behalf of the Association of Asian Constitutional Courts and Equivalent Institutions, the liaison officer for the Constitutional Court of Turkey announced, at

the 12th meeting of the Joint Council on Constitutional Justice (Venice, Italy, 8-9 October 2013), that the Venice Commission would be invited to the 2nd congress of the AACC to be held in Istanbul, Turkey, on 28 to 30 April 2014.

Association of Constitutional Courts using the French Language (ACCPUF)¹²

On the basis of the Vaduz Agreement and its Djibouti Protocol with ACCPUF, the Venice Commission continued to include the case law of ACCPUF courts in the CODICES database.

On 7 and 8 November 2013, the Venice Commission participated in the 8th seminar gathering the national correspondents of ACCPUF in Paris, France. The Commission presented the functioning of the CODICES database and trained the correspondents in the preparation of contributions to the database.

Conference of the Constitutional Control Organs of the Countries of New Democracy (CCCOCND)

On the basis of the co-operation agreement with the Conference of the Constitutional Control Organs of the Countries of New Democracy, signed in Yerevan in October 2003, the Venice Commission co-organised with the Constitutional Court of Armenia and the European Court of Human Rights, a conference on the topic “European Standards of Rule of Law and the Scope of Discretionary Powers in the member states of the Council of Europe” (Yerevan, Armenia, 3-4 July 2013). For the results of this conference, see Chapter III above under “Armenia”.

12. See the co-operation page: www.venice.coe.int/ACCPUF/.

Conference of Constitutional Courts of Portuguese Speaking Countries (CJCPLP)

On the basis of the co-operation agreement, signed in 2012, the Constitutional Court of Angola represented the Conference of Constitutional Courts of Portuguese Speaking Countries at the 12th meeting of the Joint Council on Constitutional Justice (Venice, Italy, 8-9 October 2013). The Venice Commission will be invited to the General Assembly of the CJCPLP in June 2014.

Conference of Constitutional Jurisdictions of Africa (CCJA)

On 9 to 12 May 2013, the Venice Commission participated in the 2nd congress of the Conference of Constitutional Courts of Africa that took place in Cotonou, Benin. On this occasion, a co-operation agreement was signed, which provides for contributions to the CODICES database and access to the Venice Forum Newsgroup.

A delegation of the Conference of Constitutional Jurisdictions of Africa, composed of its Secretary General (Constitutional Council of Senegal) and the Deputy Secretary General (Constitutional Council of Algeria), informed the 12th meeting of the Joint Council on Constitutional Justice (Venice, Italy, 8-9 October 2013) about the work of the CCJA.

Conference of European Constitutional Courts (CECC)¹³

On behalf of the Conference of European Constitutional Courts, the liaison officer for the Constitutional Court of Austria informed the participants about the preparation of the XVIth Congress.

Since 1999, the Joint Council has produced working documents upon request by the presidencies of the CECC on the topics of the CECC congresses. These working documents consist of extracts from the CODICES database

13. See the co-operation page: www.venice.coe.int/CECC/.

complemented by additional information provided by the liaison officers. Following the congresses, the working documents are published as special editions of the *Bulletin on Constitutional Case-Law*.

In 2013, the secretariat prepared the working document on the topic of the XVth Congress of the Conference of European Constitutional Courts (Vienna, Austria, May 2014) on “Co-operation of Constitutional Courts in Europe – current situation and perspectives”. The document deals with all three subtopics of the XVth Congress: 1) Constitutional Courts between constitutional law and European law, 2) Interaction between Constitutional Courts and 3) Interaction between European Courts.” Promoting co-operation between the courts is at the very core of the Joint Council’s work .

Organisation Internationale de la Francophonie (OIF)

Co-operation between the Venice Commission and the OIF is based on the Common Declaration on the strengthening of co-operation between the Council of Europe and the OIF signed in May 2008 and on Agreement Protocols regularly renewed for financing the translation into the French language of the *Bulletin on Constitutional Case-Law*. This financial support enables the Venice Commission to translate into French contributions received in English from member and observer states of the OIF.

Southern African Chief Justices Forum (SACJF)

The basis of co-operation with the Southern African Chief Justices Forum is the co-operation agreement, signed in Maseru in 2007.

The Venice Commission participated in the annual conference of the Southern African Chief Justices Forum on “The Quest for an Efficient Judicial System as a Key to Democratic and Economic Development” held in Livingstone, Zambia (2-3 August 2013). The

Commission delegation called upon the SACJF members to contribute to the CODICES database and join the World Conference on Constitutional Justice.

On behalf of the SACJF, the acting Chief Justice of the Supreme Court of Zambia participated in the 12th meeting of the Joint Council on Constitutional Justice (Venice, Italy, 8-9 October 2013), where she welcomed the co-operation with the Venice Commission and the World Conference on Constitutional Justice.

Union of Arab Constitutional Courts and Councils (UACCC)

Co-operation with the UACCC is based on a co-operation agreement signed in June 2008. Both the Moroccan Presidency, represented by the liaison officers of the Constitutional Council of Morocco, and the Egyptian Secretary General participated in the 12th meeting of the Joint Council on Constitutional Justice (Venice, Italy, 8-9 October 2013). They welcomed the progress made in the co-operation with the Venice Commission.

Elections, referendums and political parties

Association of European Election Officials (ACEEEO)

On 12 to 14 September 2013, the Venice Commission took part in the 22nd Annual Conference of the Association of European Election Officials, dedicated to “the role of information and communication technology and social media in elections”. The representative took part in the discussion on “The European Electoral Heritage and social media in elections”.

Inter-American Union of Electoral Organisms (UNIORE)

In November 2013, a meeting was organised with the UNIORE which focused on providing information to the members of the organisation from Latin American countries on the new VOTA database of electoral legislation.

International Foundation for Electoral Systems (IFES)

The Commission actively co-operated with IFES in Tunisia (see Chapters IV and V).

International Organisation for Standardisation (ISO)

On 18 March 2013, the Venice Commission was accepted as a Category A Liaison to the working group discussing ISO 17582, that is, the draft quality management standard directed for electoral bodies. Category A Liaisons are organisations that make an effective contribution to the work of a committee or subcommittee of the ISO. The Commission participated in the technical committee preparing this standard. The required two-thirds votes for adopting the draft standard were not attained. It was therefore proposed to adopt it as a technical specification or a publicly available specification. The decision will be taken in 2014.

Organisation of American States (OAS)

Based on the memorandum of understanding between the Secretariat General of the Council of Europe and the General Secretariat of the Organisation of American States (OAS) signed on 19 September 2011 in New York, the Venice Commission has developed a regular exchange of views with OAS. Representatives of this organisation were invited to attend the meeting of the Sub-Commission on Latin America of the Venice Commission which took place in October 2013 in Mexico City. The Commission and corresponding services of the OAS plan to organise a regular exchange of information (initially in the electoral field) between European and Latin American experts in 2014. The representatives of the OAS participated in the International Conference on the Implementation of Human Rights Treaties at the domestic level co-organised by the Venice Commission.

Appendices

The Venice Commission: an introduction

The European Commission for Democracy through Law, better known as the Venice Commission, is a Council of Europe independent consultative body on issues of constitutional law, including the functioning of democratic institutions and fundamental rights, electoral law and constitutional justice. Its members are independent experts. Set up in 1990 under a partial agreement between 18 Council of Europe member states, it has subsequently played a decisive role in the adoption and implementation of constitutions in keeping with Europe's constitutional heritage.¹⁴ The Commission holds four plenary sessions a year in Venice, working mainly in three fields: constitutional assistance, constitutional justice and election and referendum issues. In 2002, once all Council of Europe member states had joined, the Commission became an enlarged agreement of which non-European states could become full members. In 2013, it had 59 full members and 13 other entities formally associated with its work. It is financed by its member states on a proportional basis which follows the same criteria as applied to the Council of Europe as a whole. This system guarantees the Commission's independence vis-à-vis those states which request its assistance.

14. On the concept of the constitutional heritage of Europe, see *inter alia* "The Constitutional Heritage of Europe", proceedings of the UniDem seminar organised jointly by the Commission and the Centre d'Etudes et de Recherches Comparatives Constitutionnelles et Politiques (CERCOP), Montpellier, 22 and 23 November 1996, "Science and technique of democracy", No.18.

1. Constitutional assistance

The Commission has the prime function of providing constitutional assistance to states, mainly, but not exclusively, those which participate in its activities.¹⁵ Such assistance takes the form of opinions prepared by the Commission at the request not only of states, but also of organs of the Council of Europe, more specifically the Parliamentary Assembly, Committee of Ministers, Congress of Local and Regional Authorities and Secretary General, as well as of other international organisations or bodies which participate in its activities. These opinions relate to draft constitutions or constitutional amendments, or to other draft legislation in the field of constitutional law. The Commission has thus made an often crucial contribution to the development of constitutional law, mainly, although not exclusively, in the new democracies of central and eastern Europe.

The aim of the assistance given by the Venice Commission is to provide a complete, precise, detailed and objective analysis not only of compatibility with European and international standards, but also of the practicality and viability of the solutions envisaged by the states concerned. The Commission's recommendations and suggestions are largely based on common European experience in this sphere.

As concerns the working methods, the Commission's opinions are prepared by a working group composed of members of the Commission, at times assisted by external

15. Article 3, paragraph 3, of the Statute of the Commission specifies that any state which is not a member of the agreement may benefit from the activities of the Commission by making a request to the Committee of Ministers of the Council of Europe.

experts. It is ordinary practice for the working group to travel to the country concerned in order to meet and discuss with the national authorities, other relevant bodies and the civil society. The opinions contain an assessment of the conformity of the national legal text (preferably in its draft state) with European and international legal and democratic standards, and on proposals of improvement on the basis of the relevant specific experience gained by the members of the Commission in similar situations. Draft opinions are discussed and adopted by the Commission at one of its plenary sessions, usually in the presence of representatives of the country concerned. Following adoption, the opinions are transmitted to the state or the body which requested it, and come into the public domain.

The Commission's approach to advising states is based on dialogue with the authorities: the Commission does not attempt to impose solutions or abstract models; it rather seeks to understand the aims pursued by the legal text in question, the surrounding political and legal context and the issues involved; it then assesses on the one hand the compatibility of the text with the applicable standards, and on the other hand its viability and its prospects for successful functioning. In doing so, the Commission takes into account the specific features and needs of the relevant country.

Although the Commission's opinions are not binding, they are generally reflected in the law of the countries to which they relate, thanks to the approach taken and to the Commission's reputation of independence and objectivity. Furthermore, even after an opinion has been adopted, the Commission remains at the disposal of the state concerned, and often continues to provide its assistance until the constitution or law has been finally adopted.

The Commission has also played, and continues to play, an important role in the interpretation and development of the constitutional law of countries which have experienced, are experiencing or run the risk of ethnic/political

conflicts. In this role, it supplies technical assistance relating to the legal dimension of the search for political agreement. The Commission has done so in particular at the request of the European Union.

2. Studies and reports on subjects of general interest

While most of its work concerns specific countries, the Venice Commission also draws up studies and reports on subjects of general interest. Just a few examples demonstrating the variety, complexity and importance of the matters dealt with by the Commission are its reports on a possible convention on the rights of minorities, on "kin minorities"; on independence of the judiciary, on individual access to constitutional justice, on the status of detainees at Guantanamo Bay, on counter-terrorist measures and human rights, on democratic control of security services and armed forces, on the relationship between freedom of expression and freedom of religion as well as the adoption of codes of good practice in electoral matters, on referendums and in the field of political parties.

These studies may, when appropriate, lead to the preparation of guidelines and even proposals for international agreements. Sometimes they take the form of scientific conferences under the Universities for Democracy (UniDem) programme, the proceedings of which are subsequently published in the "Science and technique of democracy" series.

3. Constitutional and ordinary justice

After assisting states in adopting democratic constitutions, the Commission pursues its action aimed at achieving the rule of law by focusing on their implementation. This is why constitutional justice is one of the main fields of activity of the Commission, which has developed close co-operation with the key players

in this field, i.e. Constitutional Courts, constitutional councils and supreme courts, which exercise constitutional jurisdiction. As early as 1991, the Commission set up the Centre on Constitutional Justice, the main task of which is to collect and disseminate constitutional case law. The Commission's activities in this field are supervised by the Joint Council on Constitutional Justice. This is made up of members of the Commission and liaison officers appointed by the participating courts in the Commission's member, associate member and observer countries, by the European Court of Human Rights, the Court of Justice of the European Union and the Inter-American Court of Human Rights.

Since 1996, the Commission has established co-operation with a number of regional or language-based groups of Constitutional Courts, in particular the Conference of European Constitutional Courts, the Association of Constitutional Courts using the French Language, the Southern African Chief Justices' Forum, the Conference of Constitutional Control Organs of Countries of New Democracy, the Association of Asian Constitutional Courts and Equivalent Institutions, the Union of Arab Constitutional Courts and Councils, the Ibero-American Conference of Constitutional Justice, the Conference of Constitutional Courts of Countries of Portuguese Language and the Conference of Constitutional Jurisdictions of Africa.

In January 2009, the Commission organised, together with the Constitutional Court of South Africa, a World Conference on Constitutional Justice, which for the first time gathered together regional groups and language-based groups.

That conference decided to establish an association, assisted by the Venice Commission and open to all participating courts, with the purpose of promoting co-operation within the groups, but also between them on a global scale. In co-operation with the Federal Supreme

Court of Brazil, the Venice Commission organised a Second Congress of the World Conference (16-18 January 2011, Rio de Janeiro) during which a Statute of the World Conference was discussed. This Statute was adopted by the Bureau, composed of representatives of the regional and language-based groups in Bucharest on 23 May 2011 and entered into force on 24 September 2011. At the end of 2013, more than 80 Constitutional Courts and equivalent bodies had joined the World Conference as full members. The Venice Commission acts as the secretariat for the World Conference.

Since 1993, the Commission's constitutional justice activities have also included the publication of the *Bulletin on Constitutional Case-Law*, which contains summaries in French and English of the most significant decisions over a four-month period. It also has an electronic counterpart, the CODICES database, which contains some 7 000 decisions rendered by over 95 participating courts together with constitutions and descriptions of many courts and the laws governing them.¹⁶ These publications have played a vital "cross-fertilisation" role in constitutional case law.

At the request of a Constitutional Court and the European Court of Human Rights, the Commission may also provide *amicus curiae* briefs, not on the constitutionality of the act concerned, but on comparative constitutional and international law issues.

One final area of activity in the constitutional justice sphere is the support provided by the Commission to constitutional and equivalent courts when these are subjected to pressure by other authorities of the state. The Commission has even, on several occasions, been able to help some courts threatened with dissolution to remain in existence. It should also be pointed out that, generally speaking, by facilitating the use of support from foreign

16. CODICES is available on CD-ROM and on line (www.CODICES.coe.int).

case law, if need be, the Bulletin and CODICES also help to strengthen judicial authority.

Lastly, the Commission holds seminars and conferences in co-operation with constitutional and equivalent courts, and makes available to them on the Internet a forum reserved for them, the “Venice Forum”, through which they can speedily exchange information relating to pending cases.

The ordinary courts have become a subject of growing importance to the Commission. The latter is asked increasingly to give an opinion on constitutional aspects of legislation relating to the courts. Frequently, it co-operates in this sphere with other Council of Europe departments, so that the constitutional law viewpoint is supplemented by other aspects. With its report on the independence of the judicial system (Part I - Independence of judges (CDL-AD(2010)004) and Part II - Prosecution Service (CDL-AD(2010)040)), the Commission produced a reference text, which it uses in its opinions on specific countries.

The Commission also co-operates with ombudspersons, through opinions on the legislation governing their work, and by offering them “amicus ombud” opinions on any other subject, opinions which, like *amicus curiae* briefs, present elements of comparative and international law, but contain no verdict on the possible unconstitutionality of a text, a decision which only the Constitutional Court itself can take. The Commission promotes relations between ombudspersons and Constitutional Courts with the aim of furthering human rights protection in member countries.

4. Elections and referendums

Elections and referendums which meet international standards are of the utmost importance in any democratic society. This is the third of the Commission’s main areas of activity, in which the Commission has, since it was set up, been the most active Council of Europe body, leaving aside election observation operations.

The activities of the Venice Commission and the Council for Democratic Elections also relate to political parties, without which elections in keeping with Europe’s electoral heritage are unthinkable.

In 2002, the Council for Democratic Elections was set up at the Parliamentary Assembly’s request. This is a subordinate body of the Venice Commission comprising members of the Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of the Council of Europe. The Council for Democratic Elections also includes an observer from the OSCE/ODIHR. The Council for Democratic Elections and the Venice Commission have done much to set European standards in the electoral sphere, adopting a good number of general documents, the most important of which are the Code of Good Practice in Electoral Matters (2002), which is the Council of Europe’s reference document in this field, and the Code of Good Practice for Referendums (2007),¹⁷ Guidelines on the international status of elections observers (2009) and, in the field of political parties, the Code of Good Practice in the field of Political parties (2008). The other general documents concern such matters as electoral law and national minorities, and restrictions on the right to vote or the cancellation of electoral results, as well as on the prohibition, dissolution and financing of political parties. The Commission has adopted more than 50 studies or guidelines of a general nature in the field of elections, referendums and political parties.

The Commission has drafted more than 100 opinions on national laws and practices relating to elections, referendums and political parties, and these have had a significant impact on electoral legislation in the states concerned. Among the states which regularly co-operate with the Commission in the electoral sphere are Albania,

17. These two texts were approved by the Parliamentary Assembly and the Congress of Local and Regional Authorities of the Council of Europe, and the subject of a solemn declaration by the Committee of Ministers encouraging their application.

Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Serbia and Ukraine.

The Council for Democratic Elections has developed regular co-operation with election authorities in Europe and on other continents. It organises annually the European Conference of Electoral Management Bodies, and is also in very close contact with other international organisations or bodies which work in the election field, such as ACEEEO (Association of European Election Officials), IFES (International Foundation for Electoral Systems) and, in particular, the OSCE (Organisation for Security and Co-operation in Europe). Thus, in principle, opinions on electoral matters are drafted jointly with the OSCE/ODIHR, with which there is exemplary co-operation.

The Commission also holds seminars on subjects such as the European electoral heritage, the preconditions for democratic elections or the supervision of the electoral process, as well as training workshops for those involved in the electoral process.

The Council for Democratic Elections has created the VOTA¹⁸ database containing, *inter alia*, member states' electoral legislation. It now manages this database jointly with the Electoral Tribunal of the Judicial Power of the Federation (Mexico) (*Tribunal electoral del poder judicial de la Federación*, TEPJF).

5. Neighbourhood policy

The Commission is a unique international body which facilitates dialogue between countries on different continents. Created in 1990 as a partial agreement, the Commission was transformed into an enlarged one in 2002. Since this date several non-European countries have become full members of the Commission. The new statute and the financial support provided by

the European Union and several member states of the Council of Europe gave a possibility to develop full-scale co-operation programmes with Central Asia, southern Mediterranean and Latin America.

In Central Asia the Venice Commission developed several important bilateral and regional projects in such important fields as constitutional assistance, constitutional justice, reform of the judiciary and electoral legislation and practice. National authorities in Kazakhstan, Kyrgyzstan and Tajikistan engaged in a constructive dialogue with the Commission and the number of concrete actions has been constantly increasing in the past 10 years.

The Commission actively co-operates with countries of the southern Mediterranean region. It established contacts with Arab countries even before the Arab Awakening and this farsightedness proved very useful. After the Arab Spring the Commission established very good co-operation with Morocco and Tunisia. Successful projects in these countries helped to establish and to develop a dialogue with other countries of the region such as Egypt, Jordan and Libya. In this respect 2013 was a crucial year since it provided the basis for exploring new possibilities for the Venice Commission's assistance to countries of Maghreb and Middle East.

Latin American countries have been always interested in sharing experiences and best practices in such fields as democratic transition, constitution-building, constitutional justice and electoral legislation and practice with Europe. The Venice Commission became crucial for making such dialogue possible. In recent years the Commission and with its partners in Brazil, Chile, Mexico and Peru prepared and successfully carried out activities and projects in the above-mentioned fields. Supported by the EU the Commission also successfully completed a project focused on implementation of the new constitution in Bolivia in 2011 and 2012.

18. VOTA is accessible on line: www.venice.coe.int/VOTA.

List of member countries in 2013

Members

Albania (14.10.1996)
 Algeria (01.12.2007)
 Andorra (01.02.2000)
 Armenia (27.03.2001)
 Austria (10.05.1990)
 Azerbaijan (01.03.2001)
 Belgium (10.05.1990)
 Bosnia and Herzegovina (24.04.2002)
 Brazil (01.04.2009)
 Bulgaria (29.05.1992)
 Chile (01.10.2005)
 Croatia (01.01.1997)
 Cyprus (10.05.1990)
 Czech Republic (01.11.1994)
 Denmark (10.05.1990)
 Estonia (03.04.1995)
 Finland (10.05.1990)
 France (10.05.1990)
 Georgia (01.10.1999)
 Germany (03.07.1990)
 Greece (10.05.1990)
 Hungary (28.11.1990)
 Iceland (05.07.1993)
 Ireland (10.05.1990)
 Israel (01.05.2008)

Italy (10.05.1990)
 Kazakhstan (13.03.2012)
 Republic of Korea (01.06.2006)
 Kyrgyzstan (01.01.2004)
 Latvia (11.09.1995)
 Liechtenstein (26.08.1991)
 Lithuania (27.04.1994)
 Luxembourg (10.05.1990)
 Malta (10.05.1990)
 Mexico (03.02.2010)
 Moldova (25.06.1996)
 Monaco (05.10.2004)
 Montenegro (20.06.2006)
 Morocco (01.06.2007)
 Netherlands (01.08.1992)
 Norway (10.05.1990)
 Peru (11.02.2009)
 Poland (30.04.1992)
 Portugal (10.05.1990)
 Romania (26.05.1994)
 Russian Federation (01.01.2002)
 San Marino (10.05.1990)
 Serbia (03.04.2003).
 Slovakia (08.07.1993)
 Slovenia (02.03.1994)
 Spain (10.05.1990)
 Sweden (10.05.1990)

Switzerland (10.05.1990)
 “The former Yugoslav Republic of
 Macedonia” (19.02.1996)
 Tunisia (01.04.2010)
 Turkey (10.05.1990)
 Ukraine (03.02.1997)
 United Kingdom (01.06.1999)
 United States of America (15.04.2013)

Associate member

Belarus (24.11.1994)

Observers

Argentina (20.04.1995)
 Canada (23.05.1991)
 Holy See (13.01.1992)
 Japan (18.06.1993)
 Uruguay (19.10.1995)

Participants

European Union
 OSCE/ODIHR

Special co-operation status

Palestinian National Authority
 South Africa

List of individual members¹⁹

Mr Gianni Buquicchio (Italy), President, Former Director, Council of Europe
 (Substitutes: Mr Sergio Bartole, Former Professor, University of Trieste
 Mr Guido Neppi Modona, Professor, University of Turin)

Mr Jan Helgesen (Norway), First Vice-President, Professor, University of Oslo
 (Substitute: Mr Fredrik Sejersted, Professor, University of Oslo)

Ms Hanna Suchocka (Poland), Vice-President, Chair of Constitutional Law, Law Faculty, Adam Mickiewicz University
 (Substitute: Mr Krzysztof Drzewicki, Associate Professor, University of Gdansk)

Mr Kaarlo Tuori (Finland), Vice-President, Professor of Jurisprudence, University of Helsinki
 (Substitute: Ms Tuula Majuri, Counsellor on Legislation, Ministry of Justice)

Mr Ergun Özbudun (Turkey), Professor, Department of Political Science, University of Bilkent, Vice-President of the
 Turkish Foundation for Democracy
 (Substitute: Mr Erdal Onar, Associate Professor, Faculty of Law, Ankara University)

Mr Aivars Endzins (Latvia), Head of Department of Public Law, Turība School of Business Administration, Former
 President, Constitutional Court
 (Substitute: Mr Gunars Kutris, President, Constitutional Court)

Mr Gagik Harutyunyan (Armenia), President, Constitutional Court
 (Substitute: Mr Grigor Muradyan, First Deputy Minister of Justice)

Mme Lydie Err (Luxembourg), Ombudsman
 (Substitute: Mr Marc Fischbach, Former Ombudsman)

Ms Finola Flanagan (Ireland), Law Reform Commissioner, Law Reform Commission of Ireland
 (Substitute: Mr James Hamilton, Former Director of Public Prosecutions, President, International Association of
 Prosecutors)

Mr Lätif Hüseyinov (Azerbaijan), Professor of Public International Law, Baku State University

19. By order of seniority in 2013.

Mr Dominique Chagnollaude de Sabouret (Monaco), Member of the Supreme Court, Professor, University of Law, Economics and Social Science Paris II

(Substitute: Mr Christophe SOSSO, Defence Lawyer, Court of Appeal)

Mr Nicolae Esanu (Moldova), Lecturer, Law faculty, Moldova State University, Former Deputy Minister of Justice

(Substitute: Mr Vladimir Grosu, Deputy Minister of Justice)

Mr Oliver Kask (Estonia), Judge, Tallinn Court of Appeal

(Substitute: Ms Ene Andresen, Lecturer of Administrative Law, Tartu University)

Mr Jean-Claude Colliard (France), President of PREF-HESAM- Panthéon-Sorbonne, former member of the Constitutional Council

(Substitutes: Ms Jacqueline de Guillenchmidt, Former Member, Constitutional Council, Honorary State Councillor

Mr Hubert Haenel, Member, Constitutional Council)

Mr Christoph Grabenwarter (Austria), Judge, Constitutional Court

(Substitutes: Mme Gabriele Kucsko-Stadlmayer, Professor, University of Vienna, Substitute Member, Constitutional Court)

Mr Kurt Heller, Honorary Professor of the University of Linz, Former Justice of the Constitutional Court

Ms Kalliopi Koufa (Greece), Former Professor of International Law, Aristote University, Thessaloniki

(Substitute: Ms Fani Daskalopoulou-Livada, Director, International Law Department, Ministry of Foreign Affairs)

Mr Frixos Nicolaides (Cyprus), Supreme Court Judge

(Substitute: Mr Myron Nicolatos, Supreme Court Judge)

Mr Jan Velaers (Belgium), Professor, University of Antwerp

(Substitute: Mr Jean-Claude Scholsem (Belgium), Professor Emeritus, University of Liège)

Mr Lucian Mihai (Romania), Professor, Faculty of Law, University of Bucharest, Former President of the Constitutional Court

(Substitute: Mr Bogdan Aurescu, Secretary of State for Strategic Affairs, Ministry of Foreign Affairs)

Mr Srdjan Darmanovic (Montenegro), Ambassador of Montenegro to the United States of America

(Substitute: Mr Zoran Pazin, Lawyer)

Mr Harry Gstöhl (Liechtenstein), Former President of the Constitutional Court, Princely Justice Counsellor, Attorney at Law

(Substitute: Mr Wilfried Hoop, Partner, Hoop and Hoop)

Ms Maria Fernanda Palma (Portugal), Professor, University of Lisbon, former Judge, Constitutional Court

(Substitute: Mr Pedro Bacelar de Vasconcelos, Professor of Constitutional Law, Minho University)

Mr Jorgen Steen Sorensen (Denmark), Parliamentary Ombudsman,

(Substitute: Mr Michael Hansen Jensen, Professor, University of Aarhus)

Ms Ivetta Macejkova (Slovakia), President, Constitutional Court
(Substitute: Ms Jana Baricova, Judge, Supreme Court)

Mr Wolfgang Hoffmann-Riem (Germany), Former Judge, Federal Constitutional Court
(Substitute: Ms Anne Peters, Chair of public international law and Swiss constitutional law, Basel University)

Mr George Papuashvili (Georgia), President, Constitutional Court
(Substitute: Mr Konstantin Vardzelashvili, Deputy President, Constitutional Court)

Mr Viktor Gumi (Albania), General Director of Codification, Ministry of Justice

Mr Abdellatif Menouni (Morocco), Adviser to His Majesty the King, Professor, Law Faculty, Rabat University
(Substitute: Mr Abdelaziz Lamghari, Professor, Public Law Department, Rabat)

Ms Gordana Siljanovska-Davkova (“the former Yugoslav Republic of Macedonia”), Professor of law, University “Ss Cyril and Methodius”

(Substitutes: Mr Abdula Aliu, Professor, South East European University
Mr Adnan Jashari, Professor, Member of Assembly)

Mr Eugeni Tanchev (Bulgaria), Former President, Constitutional Court
(Substitute: Mr Plamen Kirov, Judge, Constitutional Court)

Mr Dan Meridor (Israel), Member of Parliament, Lawyer
(Substitute: Mr Barak Medina, Dean, Faculty of Law, The Hebrew University of Jerusalem)

Mr Iain Cameron (Sweden), Professor, University of Uppsala
(Substitute: Mr Johan Hirschfeldt, Former President, Svea Court of Appeal)

M. Boualem Bessaïh (Algeria), Former President, Constitutional Council
(Substitutes: M. Mohamed Habchi, Former Member, Constitutional Council
Mr Hachemi Adala, Member, Constitutional Council)

Ms Maria del Carmen Alanis Figueroa (Mexico), Justice, Federal Electoral Tribunal
(Substitutes: Mr Manuel Gonzalez Oropeza, Magistrate, Federal Electoral Tribunal
Mr Arturo Zaldivar Lelo de Larrea, Justice, Supreme Court of the Nation)

Mr Fathi Abdennadher (Tunisia), Former President, Constitutional Council
(Substitute: Mr Rfaa Ben Achour, Former Ambassador of Tunisia to Morocco, Professor of Law)

Mr Kestutis Jankauskas (Lithuania), Director of Law Department, Constitutional Court
(Substitute: Ms Vygante Milasiute, Head of International Agreement Law Division, Ministry of Justice)

Mr Miquel Àngel Canturri Montanya (Andorra), Ambassador of Andorra to the Holy See

Ms Herdis Thorgeirsdottir (Iceland), Professor, President European Women Lawyers' Association, Faculty of Law, Bifrost University

(Substitutes: Mr Hjörtur Torfason, Former Judge, Supreme Court of Iceland

Mr Pall Hreinsson, Supreme Court Judge)

N.N. (Kyrgyzstan)²⁰

Ms Jasna Omejec (Croatia), President, Constitutional Court

(Substitute: Ms Slavica Banic, Judge, Constitutional Court)

Ms Paloma Biglino Campos (Spain), Full Professor of Constitutional Law, Valladolid University

(Substitutes: Mr Miguel Angel Azpitarte, Professor of Constitutional Law, University of Granada

Mr Angel Sanchez Navarro, Professor of Constitutional Law, Complutense University, Deputy Director, Centre for Political and Constitutional Studies)

Ms Veronika Bilkova (Czech Republic), Lecturer, Law Faculty, Charles University

(Substitute: Ms Katerina Simackova, Judge, Constitutional Court)

Mr Francesco Maiani (San Marino), Assistant Professor, Swiss Graduate School of Public Administration

(Substitute: Ms Barbara Reffi, State Attorney)

Mr Richard Clayton QC, (United Kingdom), Barrister at Law

(Substitute: Mr Paul Craig, Professor of Law, University of Oxford)

Mr Ciril Ribicic (Slovenia), Professor of Constitutional Law, University of Ljubljana, Former Justice and Vice-President of the Constitutional Court

(Substitute: Ms Dragica Wedam Lukic, Professor, Faculty of Law, University of Ljubljana, Former Justice and President of the Constitutional Court)

Mr Ben Vermeulen (The Netherlands), Professor of Constitutional, administrative and education law, University of Amsterdam

(Substitute: Ms Wilhelmina Thomassen, Justice, Supreme Court, Former judge at the European Court of Human Rights)

Mr Igor Ivanovich Rogov (Kazakhstan), Chairman, Constitutional Council

(Substitute: Talgat Donakov, Deputy Head, Presidential Administration)

Mr Sergii Kivalov (Ukraine), Chairman, Committee on Justice, Verkhovna Rada of Ukraine

(Substitute: Mr Volodymyr Pylypenko, Member of Parliament)

Mr Oscar Urviola Hani (Peru), President, Constitutional Tribunal

(Substitute: Mr Carlos Mesia Ramirez, Member, Constitutional Tribunal)

20. Member resigned on 7 July 2010. A new member has not yet been appointed.

Mr Milenko Kreca, (Serbia), Professor, Law Faculty, Belgrade University
(Substitute: Mr Vladan Petrov, Professor, Law Faculty, Belgrade University)

Mr Joaquim Benedito Gomes Barbosa (Brazil), President, Federal Supreme Court
(Substitute: Ms Carmen Lucia Antunes Rocha, Judge, Federal Supreme Court)

Mr Mr Il-Won Kang, (Republic of Korea), Justice, Constitutional Court
(Substitute: Mr Joon Gyu Kim, Attorney)

Ms Sarah Cleveland (United States of America), Professor, Columbia Law School
(Substitute: Ms Evelyn M. Aswad, Law Professor, University of Oklahoma, College of Law)

Ms Taliya Khabrieva (Russia), Director, Institute for Legislation and Comparative Law
(Substitute: Mr Vladimir Lafitsky, Deputy Director, Institute for Legislation and Comparative Law)

Mr Michael Frendo (Malta), Former Speaker, House of Representatives

Ms Regina Kiener (Switzerland), Professor of Constitutional and Administrative Law, University of Zurich
(Substitute: Ms Monique Jametti Greiner, Vice-Director, Head of the International Relations Department, Federal Office of Justice)

Mr Zlatko KNEZEVIC (Bosnia and Herzegovina), Judge, Constitutional Court
(Substitutes: Mr Nedim ADEMOVIC, Lawyer
Mr Marko BEVANDA, Assistant Professor, Faculty of law, University of Mostar)

Mr Andras Zs. Varga (Hungary), Professor, Pázmány Péter Catholic University, Faculty of Law and Political Sciences
(Substitute: Mr Laszlo Szekely, Commissioner for Fundamental Rights)

Mr Juan José Romero Gozman (Chile), Judge, Constitutional Tribunal
(Substitute: Mr Francisco Fernandez Fredes, Judge, Constitutional Tribunal)

Associate members

Ms Olga G. Sergeeva (Belarus), Deputy Chair, Constitutional Court

Observers

N.N. (Argentina)

N.N. (Canada)

Mr Vincenzo Buonomo (Holy See), Professor of International Law, Latran University

Mr Takaaki Shintaku (Japan), Consul, Consulate General of Japan, Strasbourg

Mr Alvaro Moerzinger (Uruguay), Ambassador, Embassy of Uruguay in The Hague

Participants

European Union

...

OSCE/ODIHR

Mr Thomas Vennen, Head of Democratization Department

Special co-operation status

Mr Lucio Gussetti, Director, Legal Department, European Commission

Mr Esa Paasivirta, Legal Adviser, European Commission

Palestinian National Authority

Mr Ali Khashan, Minister of Justice, Ministry of Justice

South Africa

N. N.

Secretariat

Mr Thomas Markert, Director, Secretary of the Commission

Ms Simona Granata-Menghini, Deputy Secretary of the Commission

Mr Pierre Garrone, Head of the Division on Elections and Referendums

Mr Rudolf Dürr, Head of the Division on Constitutional Justice

Ms Artemiza-Tatiana Chisca, Head of the Division on Democratic Institutions and Fundamental Rights

Mr Serguei Kouznetsov, Head of the Division on Neighbourhood Co-operation

Ms Charlotte de Broutelles, Legal Officer

Ms Caroline Martin, Legal Officer

Ms Tanja Gerwein, Legal Officer

Mr Gaël Martin-Micallef, Legal Officer

Ms Amaya Ubedade Torres, Legal Officer

Mr Ziya Caga Tanyar, Legal Officer

Ms Tatiana Mychelova, Public Relations Officer

Ms Svetlana Anisimova

Ms Giovanna Langella

Ms Helen Monks
Ms Brigitte Aubry
Ms Marian Jordan
Mrs Brigitte Rall
Ms Ana Gorey
Mrs Caroline Godard
Mrs Marie-Louise Wigihoff
Ms Valérie Schaeffer
Ms Rosy Di Pol
Ms Tetiana Kudria
Ms Isabelle Sudres
Ms Barbara Bauer

Offices and sub-commissions²¹

President: Mr Buquicchio (Italy)

Honorary President: Mr Paczolay (Hungary), President, Constitutional Court

Bureau

- First Vice-President and Chair of the Scientific Council: Mr Helgesen
- Vice-Presidents: Ms Suchocka, Mr Tuori
- Members: Mr Endzins, Mr Tanchev

Scientific Council

Mr Helgesen (Chair), Mr Buquicchio, Ms Flanagan, Mr Esanu, Mr Hoffmann-Riem, Mr Sorensen, Ms Thorgeirsdottir, Mr Tuori

Council for Democratic Elections

President: Mr Gross (Parliamentary Assembly)

Vice-President: Mr Colliard

Venice Commission – Members: Ms Alanis Figueroa, Mr Darmanovic, Mr Kask,
(Substitutes: Ms Biglino Campos, Mr Craig, Mr Endzins, Mr Vermeulen)

Parliamentary Assembly – Members: Ms Josette Durrieu, Ms Marietta de Pourbaix-Lundin
(Substitutes: Ms Tinatin Khidasheli, Mr Michael McNamara, Mr Jordi Xucla)

Congress of local and regional authorities – Members: Mr Jos Wiene, Ms Gudrun Mosler-Törnström
(Substitute: Ms Pearl Pedergnana)

Joint Council on Constitutional Justice

Chair: Mr Grabenwarter

Co-Chair (Liaison Officers): Ms Anne Rasson

21. From December 2011 to December 2013.

Members: Ms Alanis Figueroa, Ms Banic, Mr Gonzalez Oropeza, Ms de Guillenchmidt, Mr Gumi, Mr Harutunian, Mr Jankauskas, Mr Kask, Ms Macejkova, Mr Mihai, Mr Neppi Modona, Ms Omejec, Ms Palma, Mr Papuashvili, Mr Pazin, Mr Ribicic, Ms Siljanovska-Davkova, Ms Simackova, Ms Thorgeirsdottir, Mr Torfason, as well as 90 liaison officers from 65 Constitutional Courts or courts with equivalent jurisdiction

Federal State and Regional State

Chair: Mr Hoffmann-Riem

Members: Mr Scholsem, Mr Velaers

International Law

Chair: Mr Dimitrijevic²²

Members: Mr Aurescu, Mr Cameron, Mr Hüseyinov, Ms Koufa, Ms Milasiute, Ms Peters, Ms Simackova

Protection of Minorities

Chair: Mr Velaers

Members: Mr Aurescu, Mr Bartole, Mr Bessaih, Mr Habchi, Mr Hamilton, Ms Koufa, Ms Peters, Mr Scholsem, Ms Siljanovska-Davkova, Mr Tuori

Fundamental Rights

Chair: Ms Thorgeirsdottir

Members: Ms Aaviksoo, Ms Alanis Figueroa, Mr Aurescu, Ms Banic, Mr Cameron, Ms Err, Mr Esanu, Mr Gonzalez Oropeza, Mr Gstöhl, Mr Haenel, Mr Heller, Mr Hirschfeldt, Mr Hoffmann-Riem, Mr Huseynov, Mr Kask, Ms Koufa, Mr Mesia Ramirez, Mr Mifsud Bonnici, Ms Milasiute, Ms Omejec, Mr Papuashvili, Mr Pazin, Mr Torfason, Mr Tuori, Mr Velaers, Ms Wedam Lukic

Democratic Institutions

Chair: Mr Paczolay

Members: Mr Bartole, Mr Cameron, Mr Darmanovic, Ms Err, Mr Esanu, Mr Gstöhl, Mr Hamilton, Mr Hirschfeldt, Mr Hoffmann-Riem, Mr Jensen, Mr Kask, Ms Kiener, Mr Nicolatos, Mr Özbudun, Mr Papuashvili, Mr Ribicic, Mr Scholsem, Mr Sejersted, Ms Siljanovska-Davkova, Ms Thorgeirsdottir, Mr Torfason, Mr Tuori

²². Deceased on 5 October 2012.

Judiciary

Chair: Ms Flanagan

Members: Mr Bartole, Mr Bessaih, Mr Canturri Montanya, Ms Err, Mr Esanu, Mr Gstöhl, Ms de Guillenchmidt, Mr Habchi, Mr Hamilton, Mr Hirschfeldt, Mr Hoffmann-Riem, Mr Kask, Ms Kiener, Mr Kivalov, Mr Mihai, Mr Neppi Modona, Mr Nicolatos, Mr Papuashvili, Mr Pazin, Ms Siljanovska-Davkova, Ms Simackova, Mr Torfason, Ms Wedam Lukic

Working Methods

Chair: Mr Sorensen

Members: Mr Buquicchio, Mr Clayton, Mr Grabenwarter, Mr Hoffmann-Riem, Mr Sejersted

Latin America

Chair: Ms Alanis Figueroa

Members: Mr Buquicchio, Mr Darmanovic, Ms Flanagan, Mr Gonzalez Oropeza, Mr Hirschfeldt, Ms Palma, Mr Paczolay, Mr Mesia Ramirez and Ms Siljanovska-Davkova

Mediterranean Basin

Chair: Mr Menouni

List of publications

Series – *Science and Technique of Democracy*²³

- No. 1 Meeting with the presidents of constitutional courts and other equivalent bodies⁺²⁴ (1990)
- No. 2 Models of constitutional jurisdiction* ²⁵ (1992)
- No. 3 Constitution making as an instrument of democratic transition (1992)
- No. 4 Transition to a new model of economy and its constitutional reflections (1993)
- No. 5 The relationship between international and domestic law (1993)
- No. 6 The relationship between international and domestic law* (1993)
- No. 7 Rule of law and transition to a market economy⁺ (1993)
- No. 8 Constitutional aspects of the transition to a market economy (1994)
- No. 9 The Protection of Minorities (1994)
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- No. 16 Local self-government, territorial integrity and protection of minorities (1997)
- No. 17 Human Rights and the functioning of the democratic institutions in emergency situations (1997)
- No. 18 The Constitutional Heritage of Europe (1997)
- No. 19 Federal and Regional States* (1997)
- No. 20 The composition of Constitutional Courts (1997)
- No. 21 Citizenship and state succession (1998)
- No. 22 The transformation of the Nation-State in Europe at the dawn of the 21st century (1998)

23. Publications are also available in French unless otherwise indicated.

24. Publications marked with + contain speeches in the original language (English or French).

25. Publications marked with * are also available in Russian.

- No. 23 Consequences of state succession for nationality (1998)
- No. 24 Law and foreign policy (1998)
- No. 25 New trends in electoral law in a pan-European context (1999)
- No. 26 The principle of respect for human dignity (1999)
- No. 27 Federal and Regional States in the perspective of European integration (1999)
- No. 28 The Right to a Fair Trial (2000)
- No. 29 Societies in conflict: the contribution of law and democracy to conflict resolution⁺ (2000)
- No. 30 European Integration and Constitutional Law (2001)
- No. 31 Constitutional implications of accession to the European Union⁺ (2002)
- No. 32 The Protection of National Minorities by their Kin-State⁺ (2002)
- No. 33 Democracy, Rule of Law and Foreign Policy⁺ (2003)
- No. 34 Code of Good Practice in Electoral Matters^{*} (2003)
- No. 35 The resolution of conflicts between the central State and entities with legislative power by the Constitutional Court² (2003)
- No. 36 Constitutional Courts and European Integration^{‡26} (2004)
- No. 37 European and U.S. Constitutionalism[‡] (2005)
- No. 38 State Consolidation and National Identity[‡] (2005)
- No. 39 European Standards of Electoral Law in Contemporary Constitutionalism¹ (2005)
- No. 40 Evaluation of fifteen years of constitutional practice in Central and Eastern Europe^{*} (2005)
- No. 41 Organisation of elections by an Impartial Body[‡] (2006)
- No. 42 The Status of International Treaties on Human Rights[‡] (2006)
- No. 43 The preconditions for a democratic election[‡] (2006)
- No. 44 Can excessive length of proceedings be remedied?[‡] (2007)
- No. 45 The participation of minorities in public life[‡] (2008)
- No. 46 The cancellation of election results[‡] (2010)
- No. 47 Blasphemy, insult and hatred[‡] (2010)
- No. 48 Supervising electoral processes[‡] (2010)
- No. 49 Definition of and development of human rights and popular sovereignty in Europe[‡] (2011)
- No. 50 10 years of the Code of Good Practice in electoral matters[‡]

26. Publications marked with ‡ are available in English only.

Other publications

Collection *"Points of view - points of law"*

- Guantanamo – violation of human rights and international law? (2007)
- The CIA above the laws? Secret detentions and illegal transfers of detainees in Europe (2008)
- Armed forces and security services: what democratic control? (2009)

Collection *"Europeans and their rights"*

- The right to life (2005)
- Freedom of religion (2007)
- Child rights in Europe (2008)
- Freedom of expression (2009)

Other titles

- Tackling blasphemy, insult and hatred in a democratic society (2008)
- Electoral Law (2008)
- European Conferences of Electoral Management Bodies
 - 2nd Conference (Strasbourg 2005)
 - 3rd Conference (Moscow, 2006)
 - 4th Conference (Strasbourg, 2007)
 - 5th Conference (Brussels, 2008)
 - 6th and 7th Conference (The Hague, 2009 and London 2010²⁷)

Bulletin on Constitutional Case-Law

1993-2012 (three issues per year)

Special Bulletins

- Description of Courts (1999)*
- Basic texts – extracts from Constitutions and laws on Constitutional Courts – issues Nos. 1-2 (1996), Nos. 3-4 (1997), No. 5 (1998), No. 6 (2001), No. 7 (2007), No. 8 (2011)
- Leading cases of the European Court of Human Rights (1998)*
- Freedom of religion and beliefs (1999)

27. Available only in electronic form.

- Special Edition Leading cases 1 – Czech Republic, Denmark, Japan, Norway, Poland, Slovenia, Switzerland, Ukraine (2002)
- Special Edition Leading cases 2 – Belgium, France, Hungary, Luxembourg, Romania, USA (2008)
- Inter-Court Relations (2003)
- Statute and functions of Secretary Generals of Constitutional Courts (2006)
- Criteria for Human Rights Limitations by the Constitutional Court (2006)
- Legislative Omission (2008)
- State Powers (2012)
- Leading Cases ECJ (2013)
- Descriptions of Courts (2013)

Annual Reports

- 1993-2012

Brochures

- 10th anniversary of the Venice Commission (2001)
- Revised Statute of the European Commission for Democracy through Law (2002)
- UniDem Campus – Legal training for civil servants (2003)²⁸
- 20th Anniversary – Publications (2010)
- Selected studies and reports (2010)
- Key Facts (2011)²⁹
- Services provided by the Venice Commission to Constitutional Courts and equivalent bodies (2011)
- Code of Good Practice in Electoral Matters (2011)³⁰
- The Venice Commission of the Council of Europe (2012)
- Main reference texts of the Venice Commission (2013)

28. Also available in Italian.

29. Also available in Russian and Spanish.

30. Also available in Arabic, Russian and Spanish.

List of documents adopted in 2013

94th plenary session (Venice, 8-9 March 2013)

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| CDL-AD(2013)001 | Report on the relationship between political and criminal ministerial responsibility |
| CDL-AD(2013)002 | Joint Opinion ³¹ on Draft Legislation of the Republic of Moldova pertaining to financing political parties and election campaigns |
| CDL-AD(2013)003 | Opinion on Federal Law No. 65-FZ of 8 June 2012 of the Russian Federation amending Federal Law No. 54-FZ of 19 June 2004 on Assemblies, Meetings, Demonstrations, Marches and Picketing and the Code of Administrative Offences |
| CDL-AD(2013)004 | Joint Amicus Curiae Brief for the Constitutional Court of Moldova on the compatibility with European Standards of Law No. 192 of 12 July 2012 on the prohibition of the use of symbols of the totalitarian communist regime and of the promotion of totalitarian ideologies of the Republic of Moldova |
| CDL-AD(2013)005 | Opinion on Draft amendments to Laws on the Judiciary of Serbia |
| CDL-AD(2013)006 | Opinion on the Draft amendments to the Law on the Public Prosecution of Serbia |
| CDL-AD(2013)007 | Opinion on the Draft Amendments to the Organic Law on Courts of General Jurisdiction of Georgia |
| CDL-AD(2013)008 | Amicus curiae brief on the Immunity of Judges for the Constitutional Court of Moldova |
| CDL-AD(2013)009 | Opinion on the Provisions relating to Political Prisoners in the Amnesty Law of Georgia |
| CDL-AD(2013)010 | Opinion on the Draft New Constitution of Iceland |
| CDL-AD(2013)011 | Report on the Role of Extra-Institutional Actors in the Democratic System (Lobbying) |

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| CDL-AD(2013)012 | Opinion on the Fourth Amendment to the Fundamental Law of Hungary |
| CDL-AD(2013)013 | Joint Opinion Venice Commission and Directorate for Justice and Human Dignity on the Draft Law on the Temporary State Commission on miscarriages of justice of Georgia |

31. "Joint Opinion" refers to opinions drafted jointly by the Venice Commission and the OSCE/ODIHR unless specified otherwise.

- CDL-AD(2013)014 Opinion on the Draft Law on the amendments to the Constitution, Strengthening the Independence of Judges and on the Changes to the Constitution proposed by the Constitutional Assembly of Ukraine
- CDL-AD(2013)015 Opinion on the Draft Law on the Courts of Bosnia and Herzegovina
- CDL-AD(2013)016 Joint Opinion on the Draft Amendments to the Laws on election of people's deputies and on the Central Election Commission and on the Draft Law on repeat elections of Ukraine
- CDL-AD(2013)017 Opinion on the law on national referendum of Ukraine
- CDL-AD(2013)018 Opinion on the balance of powers in the Constitution and the Legislation of the Principality of Monaco
- CDL-AD(2013)019 Joint Opinion by the Venice Commission and the Directorate for Human Rights (DHR) of the Directorate General for Human Rights and Rule of Law of the Council of Europe, on the Law n°2008-37 of 16 June 2008 relating to the Higher Committee for Human Rights and Fundamental Freedoms of the Republic of Tunisia
- CDL-AD(2013)020 Joint Opinion on the electoral code of “the former Yugoslav Republic of Macedonia”
- CDL-AD(2013)021 Opinion on the electoral legislation of Mexico
- CDL-AD(2013)022 Opinion on the issue of the prohibition of so-called “Propaganda of homosexuality” in the light of recent legislation in some Council of Europe Member States
- CDL-AD(2013)023 Interim Opinion on the Draft Law on Civic Work Organisations of Egypt

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- CDL-AD(2013)024 Opinion on the Legislation pertaining to the Protection against Defamation of the Republic of Azerbaijan
- CDL-AD(2013)025 Joint Opinion on the Draft Law on the Public Prosecutor's Office of Ukraine
- CDL-AD(2013)026 Joint Opinion on Draft Amendments to Legislation on the Election of People's Deputies of Ukraine
- CDL-AD(2013)027 Amicus Curiae Brief on the Compatibility with the non-Discrimination Principle of the Selection of the Republic Day of the Republika Srpska
- CDL-AD(2013)028 Opinion on the Draft Amendments to three Constitutional Provisions relating to the Constitutional Court, the Supreme State Prosecutor and the Judicial Council of Montenegro
- CDL-AD(2013)029 Opinion on three Draft Constitutional Laws amending two Constitutional Laws amending the Constitution of Georgia
- CDL-AD(2013)030 Joint Interim Opinion on the Draft Law amending the Law on Non-commercial Organisations and other Legislative Acts of the Kyrgyz Republic

-
- CDL-AD(2013)031 Revised Rules of Procedure adopted by the Venice Commission at its 50th Plenary Session (Venice, 8-9 March 2002), as amended at its 53rd Plenary Session (Venice, 13-14 December 2002), at its 61st Plenary Session (Venice, 2-3 December 2004)
- CDL-AD(2013)032 Opinion on the Final Draft Constitution of the Republic of Tunisia

97th plenary session (Venice, 6-7 December 2013)

- CDL-AD(2013)033 Report on the misuse of administrative resources during electoral processes
- CDL-AD(2013)034 Opinion on proposals amending the Draft Law on the amendments to the Constitution to strengthen the independence of Judges of Ukraine
- CDL-AD(2013)035 Opinion on the Draft Code on Judicial Ethics of the Republic of Tajikistan
- CDL-AD(2013)036 Opinion on the 2013 Draft Amendments to the Law on the Occupied Territories of Georgia
- CDL-AD(2013)037 Draft Opinion on the Draft Law on making changes and additions to the Civil Code (introducing compensation for non-pecuniary damage) of the Republic of Armenia
- CDL-AD(2013)038 Opinion on the Legislation on Defamation in Italy

Members – 59

Albania (1996), Algeria (2007), Andorra (2000), Armenia (2001), Austria (1990), Azerbaijan (2001), Belgium (1990), Bosnia and Herzegovina (2002), Brazil (2009), Bulgaria (1992), Chile (2005), Croatia (1997), Cyprus (1990), Czech Republic (1994), Denmark (1990), Estonia (1995), Finland (1990), France (1990), Georgia (1999), Germany (1990), Greece (1990), Hungary (1990), Iceland (1993), Ireland (1990), Israel (2008), Italy (1990), Kazakhstan (2011), Republic of Korea (2006), Kosovo (2014), Kyrgyzstan (2004), Latvia (1995), Liechtenstein (1991), Lithuania (1994), Luxembourg (1990), Malta (1990), Mexico (2010), Republic of Moldova (1996), Monaco (2004), Montenegro (2006), Morocco (2007), Netherlands (1992), Norway (1990), Peru (2009), Poland (1992), Portugal (1990), Romania (1994), Russian Federation (2002), San Marino (1990), Serbia (2003), Slovakia (1993), Slovenia (1994), Spain (1990), Sweden (1990), Switzerland (1990), “the former Yugoslav Republic of Macedonia” (1996), Tunisia (2010), Turkey (1990), Ukraine (1997), United Kingdom (1999), United States (2013)

Associate member

Belarus (1994)

Observers – 5

Argentina (1995), Canada (1991), Holy See (1992), Japan (1993), Uruguay (1995)

Participants – 2

European Union, OSCE/ODIHR

Special co-operation status – 2

Palestinian National Authority, South Africa

Venice Commission

DDG-I, Council of Europe – 67075 Strasbourg Cedex, France

Tel.: +33 3 88 41 20 67 – Fax: +33 3 88 41 37 38

E-mail: venice@coe.int

www.venice.coe.int

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