

VENICE COMMISSION NEWSLETTER

No. 02/2022

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- Opinions under preparation
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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

I. MEMBERSHIP, NOMINATIONS



CROATIA

Ms Jasna OMEJEC (reappointed)

Professor of Administrative Law, Law Faculty, University of Zagreb

Ms Sanja BARIĆ (Substitute member)

Professor, Law Faculty, University of Rijeka



FINLAND

Mr Tuomas OJANEN

Professor of Constitutional Law, Law Faculty, University of Helsinki

Mr Janne SALMINEN (Substitute member)

Full Professor of Public Law, Vice Dean of the Public Law Faculty, University of Turku



REPUBLIC OF KOREA

Ms Noh Kong LEE (Substitute member)

Vice Minister of Justice



KYRGYZSTAN

Mr Aiaz BAETOV

Minister of Justice

Mr Murat UKUSHEV (Substitute member)

Head of Legal Support Department,
Administration of the President of the Republic



MONTENEGRO (REAPPOINTED)

Mr Srdjan DARMANOVIĆ

Former Minister of Foreign Affairs, Professor of
Comparative Politics, University of Montenegro

Mr Zoran PAZIN (Substitute member)

Former Deputy Prime Minister and Minister of Justice

CYPRUS

Mr Yiasemis N. YIASEMI

Judge, Supreme Court

Mr Nicholas SANTIS (Substitute member)

Judge, Supreme Court



ICELAND (REAPPOINTED)

Ms Herdis KJERULF THORGEIRSDOTTIR

Vice-President of the Venice Commission, Attorney at Law

Mr Thorgeir ÖRLYGSSON (Substitute member)

Former President, Supreme Court

Mr Hjortur TORFASON (Substitute member)

Former Judge, Supreme Court



KOSOVO

Mr Qerim QERIMI (reappointed)

Professor, Law Faculty, University of Pristina

Mr Kushtrim ISTREFI (Substitute member)

Assistant Professor, Faculty of Human Rights Law and
Public International Law, Utrecht University



ROMANIA

Mr Bogdan Lucian AURESCU (reappointed)

Minister of Foreign Affairs, Professor, Member of the
UN International Law Commission

Ms Laura-Iuliana SCÂNTEI (Substitute member)

Judge, Constitutional Court



II. RECENT EVENTS AND DEVELOPMENTS (1/3)



BOSNIA AND HERZEGOVINA, BRAZIL AND BULGARIA - ELECTIONS - 2 OCTOBER 2022

General elections will be held in Bosnia and Herzegovina and in Brazil (presidency and vice-presidency, state governors and vice-governors, State Legislative Assemblies and the Legislative Chamber of the Federal District) on 2 October. The Venice Commission assisted the election observation mission of the Parliamentary Assembly of the Council of Europe (PACE) in Bosnia and Herzegovina and the Electoral Accompaniment Mission of the Global Network on Electoral Justice (GNEJ) in Brazil. The same day early parliamentary elections took place in Bulgaria and a representative of the Commission assisted the election observation mission of the PACE.

- [Conclusions on the Election Observation Mission in Bosnia and Herzegovina](#)
- [Conclusions on the Election Observation Mission in Bulgaria](#)

EXCHANGE OF VIEWS BETWEEN THE PRESIDENT OF THE VENICE COMMISSION AND THE COMMITTEE OF MINISTERS - STRASBOURG, COUNCIL OF EUROPE, 07/09/2022



The presentation of the 2021 activity report and annual exchange of views with the Committee of Ministers took place on 7 September 2022 in Strasbourg.

The Venice Commission President underlined the substantive and substantial work which the Commission carried out last year, and continues to carry out in 2022. The increase in opinion requests has become structural (50 texts adopted in 2021 in relation to 23 countries – 1/3 from the European Union, compared to 32 in 2020 and 26 in 2019); some 25 opinion requests have already been received in 2022.

The majority of ambassadors intervened in the exchange of views, expressing satisfaction as to the pertinence, quality, results and impact of the Commission's work. Several ambassadors expressed support for an increase in the Commission's budget.

Further exchange of views with the President of the Commission, specifically devoted to the implementation of the Commission's recommendations, is planned before the end of the year.

- [Text of the Annual Report 2021 of Activities](#)
- [Speech of the President of the Commission](#)



II. RECENT EVENTS AND DEVELOPMENTS (2/3)

EUROPEAN COMMISSION - 2022 RULE OF LAW REPORT



EN English

[Home](#) > [Publications](#) > [2022 Rule of law report - Communication and country chapters](#)

2022 Rule of law report - Communication and country chapters

The 2022 Rule of Law report of the European Commission was published on 13 July 2022. It contains numerous references to the Venice Commission's opinions.

[Text of the Report](#)

EU CANDIDATE STATUS FOR UKRAINE AND THE REPUBLIC OF MOLDOVA

On 23 June 2022, the European Council decided to grant the status of candidate country to Ukraine and to the Republic of Moldova. It invited the European Commission to report to the Council on the fulfilment of the conditions specified in the Commission's opinions on the respective membership applications as part of its regular enlargement package. The European Council expressed readiness to grant the status of candidate country to Georgia once the priorities specified in the Commission's opinion on Georgia's membership application have been addressed.

The European Commission's opinions on Ukraine, Moldova and Georgia contain several references to the opinions of the Venice Commission.

- [European Council conclusions, 23-24 June 2022](#)



- [Opinion on Ukraine's application for membership of the EU](#), 16/06/2022



- [Opinion on Moldova's application for membership of the EU](#), 16/06/2022



- [Opinion on Georgia's application for membership of the EU](#), 16/06/2022

“CIVIL SOCIETY: EMPOWERMENT AND ACCOUNTABILITY” INTERNATIONAL ROUND TABLE



Strasbourg, Council of Europe, 13/09/2022 - The International round table on “Civil society: empowerment and accountability” focused on two topics: participation of the civil society organisations in the public life and the regulations of foreign-funded associations. The round table was opened by the Secretary General of the Council of Europe, and addressed by the President of the Venice Commission, the Director of the ODIHR, the Minister for European Affairs of Ireland, the President of the PACE, Human Rights Commissioner, the Director of the Fundamental Rights Agency, and the UN Special Rapporteur on the Freedom of Association.

Speakers at the round-table included experts in international standards, members of the Venice Commission and the ODIHR experts, representatives of domestic and international NGOs and of the national authorities from countries with a relevant experience. The event was attended by several ambassadors, representatives of NGOs and international bodies based in Strasbourg. The round-table was organised in a hybrid format with over 50 participants present in the conference room and other 60 following the event online.

For the program and the full list of speakers and registered participants please refer to:

- the [web-page of the event on the website of the Venice Commission](#) and
- the [web-site of the DGI](#).

VOLUNTARY CONTRIBUTIONS

The following voluntary contributions reached the Commission in the past months:

- CZK 100.000 by **the Czech Republic**;
- €45 000 by the **Regione Veneto, Italy**.

III. JUNE 2022 PLENARY SESSION - MAJOR DECISIONS



The Venice Commission held its 131st Plenary Session in Venice, at the Scuola Grande di San Giovanni Evangelista, on 17-18 June 2022, and **adopted the following opinions on:**

- the Law on Media of **Azerbaijan** (jointly with the Directorate General of Human Rights and Rule of Law of the Council of Europe (DGI)),
- the December 2021 amendments to the Organic Law on Common Courts of **Georgia**,
- the Concept Paper on the Vetting of Judges and Prosecutors and draft amendments to the Constitution of **Kosovo**;
- the draft law N°08/L-121 on the State Bureau for Verification and Confiscation of Unjustified Assets of **Kosovo**;
- the draft Law on the Independence of Judicial Courts of **Lebanon**;
- the draft law on amending some normative acts (Judiciary) of the **Republic of Moldova** (jointly with the DGI);
- the draft amendments to the Law n°3/2016 on the Prosecutor's Office of the **Republic of Moldova**;
- the draft law on political parties of **Mongolia** (jointly with the OSCE/ODIHR);
- the draft State Property Code of **Tunisia**;
- the amendments to the electoral legislation of **Türkiye** by Law no. 7393 of 31 March 2022 (jointly with the OSCE/ODIHR);
- the limits of subsequent (a posteriori) review of constitutional amendments by the Constitutional Court (***amicus curiae*** Brief for the Constitutional Court of **Ukraine**).



[Link to all the decisions of the 131st plenary](#)

The Commission **also adopted** the **Explanatory Report of the Code of Good Practice on Referendums** and **endorsed** the Urgent Opinion on the constitutional and legislative framework on the referendum and elections announcements by the President of the Republic, and in particular on the decree-law n°22 of 21 April 2022 amending and completing the organic Law on the Independent High Authority for Elections of **Tunisia** (ISIE).

In the course of the 131st plenary, the Commission **exchanged views with:**

- Mr Robert Spano, **President of the European Court of Human Rights**;
- Mr Matteo Mecacci, **Director** of the OSCE Office for Democratic Institutions and Human Rights (**ODIHR**);
- Mr Didier Reynders, **European Commissioner for Justice**;
- Representatives of the **Committee of Ministers**, the **Parliamentary Assembly** and the **Congress** of the Council of Europe;
- Representatives of the authorities of **Kosovo, Lebanon, Republic of Moldova and Türkiye**.

Upon the recommendation of the Enlarged Bureau, the Commission **elected** for a mandate expiring in December 2023 **Chairs of the Sub-Commissions on Federal and Regional State, the Mediterranean Basin and Ombudsman Institutions**, and was informed of the election by the **Council for Democratic Elections (CDE)** of the President of the CDE.

IV. OPINIONS UNDER PREPARATION

(BY ORDER OF REGISTRATION)

1/3



1054/2021 - BELARUS - Final Opinion on constitutional reform and its compliance with Council of Europe standards

- **Request:** Council of Europe, Parliamentary Assembly, President
- **Adoption:** October 2022

1066/2021- UKRAINE - Urgent Joint Opinion of the Venice Commission and OSCE/ODIHR on the draft law on local referendum in Ukraine ([CDL-PI\(2022\)001](#))

- **Request:** Parliament, Speaker
- **Publication:** 10/02/2022 **Endorsement:** October 2022

1071/2021 - SERBIA - Opinion on the constitutional and legal framework governing the functioning of democratic institutions in Serbia, taking into account its earlier opinion adopted on 15-16 October 2021 on the draft Constitutional Amendments on the Judiciary and draft Constitutional Law for the Implementation of the Constitutional Amendments (**electoral issues**)

- **Request:** Council of Europe, PACE Monitoring Committee – 16/12/2021
- **Adoption:** December 2022

1087/2022 - MEXICO - Opinion on the proposed amendments to the electoral legislation

- **Request:** National Electoral Institute, INE - 28/06/2022
- **Adoption:** October 2022

1088/2021 - SERBIA - Opinion on the constitutional and legal framework governing the functioning of democratic institutions, taking into account its earlier opinion adopted on 15-16 October 2021 on the draft Constitutional Amendments on the **Judiciary**

- **Request:** Minister of Justice - 12/09/2022
- **Adoption:** October 2022

1089/2022 - REPLY TO PACE RECOMMENDATION 2235 (2022) "Recent challenges to security in Europe: what role for the Council of Europe?"

- **Request:** Council of Europe, Committee of Ministers - 03/06/2022
- **Adoption:** October 2022

1090/2022 - REPUBLIC OF MOLDOVA - Opinion on the amendments to the Audiovisual Media Services Code and to some normative acts including the ban on symbols associated with and used in military aggression actions

- **Request:** Ministry of Foreign Affairs and European Integration - 28/04/2022
- **Adoption:** October 2022

1091/2022 - UKRAINE - *Amicus curiae* brief on certain questions related to the election and discipline of the members of the High Council of Justice

- **Request:** Constitutional Court - 01/07/2022
- **Adoption :** October 2022

IV. OPINIONS UNDER PREPARATION

(BY ORDER OF REGISTRATION)

2/3



1092/2022 - GEORGIA - Urgent Opinion on the Law on the Amendment to the Criminal Procedure Code adopted by the Parliament on 7 June 2022 - [CDL-PI\(2022\)028](#)

- **Request:** President - 01/07/2022
- **Publication:** 26/08/2022 **Endorsement:** October 2022

1093/2022 - REPUBLIC OF MOLDOVA - Opinion on the draft electoral code

- **Request:** Speaker - 27/07/2022
- **Adoption:** October 2022

1094/2022 - ANDORRA – Opinion on the Law on the Creation and Functioning of the Ombudsman

- **Request:** MFA, Permanent Representation to the Council of Europe - 15/07/2022
- **Adoption:** October 2022

1095/2022 - BULGARIA – Opinion on the draft amendments to the Criminal Procedure Code

- **Request:** Minister of Justice - 27/07/2022
- **Adoption:** October 2022

1096/2022 - REPUBLIC OF MOLDOVA - *Amicus curiae* brief on the offence of illicit enrichment (jointly with ODIHR)

- **Request:** President of the Constitutional Court – 27/07/2022
- **Adoption:** October 2022

1097/2022 - REPUBLIC OF MOLDOVA – *Amicus curiae* Brief on the clarity of provisions on combating extremist activity

- **Request:** President of the Constitutional Court – 04/08/2022
- **Adoption:** October 2022

1098/2022 - BULGARIA - Opinion on the draft amendments to the Judicial System Act concerning the Inspectorate at the Supreme Judicial Council

- **Request:** Minister of Justice - 11/08/2022
- **Adoption:** October 2022

1099/2022 - KAZAKHSTAN - Opinion on the Constitutional Law on the Commissioner for Human Rights

- **Request:** Commissioner for Human Rights - 11/08/2022
- **Adoption :** October 2022

1100/2022 - REPUBLIC OF MOLDOVA – Opinion on the draft law on the Supreme Court of Justice

- **Request:** Minister of Justice - 22/08/2022
- **Adoption :** October 2022

1101/2022 - ARMENIA – Opinion on the draft law on the institute of the appeal against the decisions of the Supreme Judicial Council

- **Request:** Minister of Justice - 25/08/2022
- **Adoption:** October 2022

IV. OPINIONS UNDER PREPARATION

(BY ORDER OF REGISTRATION)

3/3



1102/2022 - TURKEY – Urgent Opinion on the amendments to the Criminal Code (misleading information) (jointly with the DG-I) - [CDL-PI\(2022\)032](#)

- **Request:** PACE – 14/09/2022
- **Publication:** 7/10/2022 **Endorsement :** October 2022

1103/2022 - BOSNIA AND HERZEGOVINA – *Amicus curiae* brief on the functioning on the State Court (principle of two instances)

- **Request:** Constitutional Court - 13/09/2022
- **Adoption:** December 2022

1104/2022 - BOSNIA AND HERZEGOVINA – Opinion on the draft Law on Courts

- **Request:** Minister of Justice - 30/08/2022
- **Examination:** postponed

1105/2022 - ROMANIA - Opinion on draft justice laws

- **Request:** PACE – 14/09/2022
- **Adoption:** December 2022

1106/2022 - SERBIA - Opinion on two draft laws implementing the Constitutional Amendments on the Prosecution service

- **Request:** Minister of Justice - 12/09/2022
- **Adoption:** December 2022

V. ACTIVITIES (CO-)ORGANISED BY THE VENICE COMMISSION



04 - 05/07/2022 - Madrid / SPAIN

BICAMERALISM: MODELS, EVOLUTION AND CURRENT CHALLENGES OF A "CONTROVERSIAL INSTITUTION" - INTERNATIONAL SEMINAR

Organised by the Centre for political and constitutional studies (Madrid, Spain) and the Venice Commission

05-06/07/2022 - Belgrade / SERBIA

POST-ELECTIONS ROUND TABLES

Following the presidential and early parliamentary elections held in Serbia on 3 April 2022, these events were organised by the Venice Commission, with the participation of the OSCE/ODIHR and Council of Europe's Parliamentary Assembly experts.



13/09/2022 - Strasbourg / FRANCE

"CIVIL SOCIETY: EMPOWERMENT AND ACCOUNTABILITY" - International Round Table

organised jointly with OSCE/ODIHR, under the auspices of the Irish Presidency of the Committee of Ministers of the Council of Europe, with the participation of the Secretary General of the Council of Europe, PACE President and CoE HR Commissioner and others.

16/09/2022 - Bishkek / KYRGYZSTAN

"JUDICIAL INDEPENDENCE IN THE CONTEXT OF CONSTITUTIONAL REFORMS" - CONFERENCE

Organised by the Venice Commission and the Supreme Court of the Republic of Kyrgyzstan



04 - 07/10/2022 - Bali / INDONESIA

5th Congress of the World Conference on Constitutional Justice "CONSTITUTIONAL JUSTICE AND PEACE"

Organised by the Constitutional Court of the Republic of Indonesia and the Venice Commission



VI. COMPILATIONS AND PUBLICATIONS

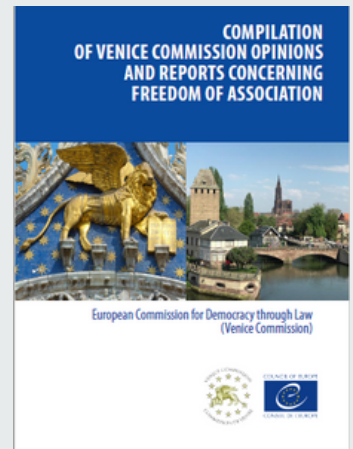


COMPILATIONS

- **FREEDOM OF ASSOCIATION** - UPDATED AND ISSUED 09/2022

FORTHCOMING:

- **VETTING**
- **CONSTITUTIONAL JUSTICE** (UPDATE)
- **PROTECTION OF NATIONAL MINORITIES** (UPDATE)



PUBLICATIONS



- **E-BULLETIN ON CONSTITUTIONAL CASE-LAW - ISSUE 2021/3**

Be informed about the most important judgments rendered recently in the field of constitutional justice worldwide. You will receive three times a year a selection of quality summaries in English / French of the key case-law of international human rights courts and of some 100 participating courts.

Subscribe here:

<https://www.venice.coe.int/files/bulletin/eBulletin-subscription.html>

- **“RULE OF LAW, DEMOCRACY AND GLOBALIZATION. AN APPROACH TO THE VENICE COMMISSION ON ITS 30TH ANNIVERSARY”**

This publication is a joint initiative of the Venice Commission, the Permanent Representation of Spain to the Council of Europe and the Centre for Political and Constitutional Studies.
Madrid, 09/ 2022 (in Spanish only)



HOLDING REFERENDUMS DURING WARS AND MILITARY THREATS IS AGAINST EUROPEAN STANDARDS - 21/09/2022

As the Secretary General of the Council of Europe, Marija Pejčinović Burić, has reminded in her statement of 15 September 2022, in 2014 the Venice Commission adopted an opinion on the organisation by the Autonomous Republic of Crimea in Ukraine of a referendum of 15 September 2022, in



2014 the Venice Commission adopted an opinion on the organisation by the Autonomous Republic of Crimea in Ukraine of a referendum on becoming a constituent territory of the Russian Federation.

The Venice Commission found that the circumstances prevailing in Crimea had not allowed for the holding of a referendum in line with European democratic standards. The Commission also warned that any referendum on the status of a territory should be preceded by serious negotiations among all stakeholders.

The conclusions of the Venice Commission expressed in the 2014 context apply *mutatis mutandis* to today's situation.

The Venice Commission has also stated in general that due to the difficulties to guarantee free campaigning and public debate on reforms with a longer effect, holding referendums during states of emergency, including war and military threats, would go against European standards.

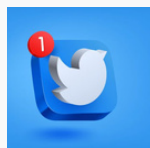
- [Statement of the Secretary General of the Council of Europe](#)
- [Venice Commission Opinion concerning Crimea \(CDL-AD\(2014\)002\)](#)
- [Venice Commission Report "Respect for democracy, human rights and the rule of law during states of emergency: reflections"](#)



The European Commission
for Democracy through Law

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The Venice Commission of
the Council of Europe



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