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In the pipeline

Useful links:

- [Venice Commission](#)
- [Council of Europe](#)
- [WCCJ](#)
- [Previous issues](#)



OCTOBER 2019 PLENARY

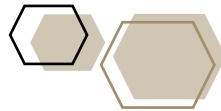
THE COMMISSION, AT ITS 120TH SESSION (11-12 OCTOBER 2019, VENICE) TOOK THE FOLLOWING DECISIONS:

- adopted the opinions on:
 - the [scope of the power of the President to set the dates of elections](#) and on [the draft law on the finalisation of transitional ownership processes in Albania](#);
 - the Constitutional implications of the ratification of the Council of Europe [Convention on Preventing and Combating Violence against Women and Domestic Violence \(Istanbul Convention\)](#) and [on the draft amendments to the Judicial Code of Armenia and some other Laws](#);
 - [the draft law on legal acts of Kosovo](#);
 - [the draft law on the reform of the Supreme Court of Justice of the Republic of Moldova](#);
 - [linking amendments to the Constitution of Peru to the question of confidence](#);
- adopted [the Amicus Curiae Brief for the European Court of Human Rights in the case of Mugemangango v. Belgium on procedural safeguards that a State must provide in the framework of a procedure for contesting the outcome of an election or the distribution of seats](#);
- endorsed the [Compilation of Venice Commission opinions and reports concerning Electoral Campaigns](#);

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AMONG OTHER DECISIONS, THE COMMISSION:

- held an exchange of views with
 - Ms Marija Pejčinović-Burić, **Secretary General of the Council of Europe**;
 - Mr Johannes Hahn, **EU Commissioner in charge of European Neighbourhood Policy and Enlargement Negotiations**;
 - Mr Seamus Woulfe, **Attorney General of Ireland**;
 - Mr Taulant Balla and Ms Klothilda Bushka, members of the **Assembly of Albania**, and with Ms Ilda Zhulali, **Adviser to the President of the Republic of Albania**;
 - Mr Rustam Badasyan, **Minister of Justice of Armenia**;
 - Mr Mentor Borovci, **Director of Legal Office, Office of the Prime Minister of Kosovo**,
 - Ms Olesia Stamate, **Minister of Justice of the Republic of Moldova**,
 - Ms Rosa Maria Bartra, **President of the Constitutional Committee of the Congress of Peru**, and with Mr Fernando Castañeda-Portocarrero, **Deputy Minister of Justice of Peru**,
 - Mr Dorj Odbayar, **President of the Constitutional Court of Mongolia**;
 - the representatives of the **Parliamentary Assembly**, the **Committee of Ministers**, and the **Congress of Local and Regional Authorities of the Council of Europe**;



THE COMMISSION ALSO:

- was informed on **follow-up** to the:
 - Joint opinion on the draft law on the legislative initiative of the citizens of **Albania**;
 - Urgent Opinion on the selection and appointments of Supreme Court judges of **Georgia**;
 - Joint opinion on the law for amending and completing certain legislative acts (Electoral system for the election of Parliament) of the Republic of **Moldova**;
 - Opinion on the constitutional situation in the Republic of **Moldova**, with particular reference to the possibility of dissolving parliament;
 - Opinion on the draft election code of **Ukraine**;
- was informed on
 - the outcome of the exchange of views with a delegation of the Parliament of the Netherlands regarding their request for an opinion on the possibility for national parliaments to control the activities of the European Union and in particular the different institutions of the Eurozone, and decided to carry out a comparative study on **national mechanisms of parliamentary oversight of EU activities**, if there is added value in respect of the already existing scientific material on this topic;
 - constitutional developments in the **United States** and in the **United Kingdom**. ...



**ALL DECISIONS OF THE OCTOBER
2019 PLENARY**

SELECTED TEXTS

Albania - Opinion on the powers of the President to set the dates of elections - [CDL-AD\(2019\)019](#)

By letter of 22 July 2017, the Speaker of the Assembly of Albania, Mr Gramoz Ruci requested an opinion of the Venice Commission on the scope of the powers of the President to set the dates of elections.

Commission concluded that, in the absence of a statutory provision on the issue, the President can only cancel elections for local government bodies in a situation which meets the criteria for taking emergency measures. Even then the President needs a specific – ad hoc – legal basis to postpone elections. Cancelling elections is possible only in situations which meet the requirement for declaring a state of emergency. However, the applicable constitutional rules for emergency situations were not followed in this case. Neither was there a political consensus, which would have allowed for the establishment of an *ad hoc* legal basis.

However, the President’s calls for dialogue, the expectation that postponing election would contribute to the pursuit of a compromise between the parties, the lack of a direct challenge of the President’s Decrees before a court and the constitutional status of local elections as compared to parliamentary elections foster a view that - although the President may have exceeded his constitutional competences by cancelling and postponing the local elections beyond the electoral mandate of the local authorities without a specific legal basis - **these acts might not meet the requisite criteria of sufficient seriousness in the circumstances to warrant an impeachment of the President.**

[Full text of the opinion](#)

- **Constitutional implications for the Republic of Armenia of the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) - [CDL-AD\(2019\)018](#)**



On 25 July 2019, Mr Rustam Badasyan, Minister of Justice of Armenia, requested an opinion of the Venice Commission on the constitutional implications of the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) for Armenia.

The Commission stressed that the **ratification of a treaty is a sovereign act of the State**, which means that the State is entirely free to choose whether or not to ratify a treaty and, as a result, be bound by its obligations. While it belongs to the Constitutional Court of Armenia to rule on the compatibility of the Istanbul Convention with the Constitution of Armenia, the Venice Commission is of the view that there are no provisions in that Convention that could be said to “contradict” the Constitution of Armenia. On the contrary, the main obligation of the Istanbul Convention, namely, to prevent and combat any form of violence against women and domestic violence, already follows from

the Constitution and from other human rights treaties to which Armenia is a State Party. The Commission “dismantled” one by one the following major allegations regarding the Istanbul Convention:

- that it is superfluous;
- that it contains certain terms and concepts – gender identity, sexual orientation, same sex marriage, etc., - that clash with the terms and concepts enshrined in the national constitution;
- that it would result in legislative changes that would contravene the national constitution;
- that it introduces a monitoring body with excessive competences;
- that it introduces new commitments in the field of asylum law.



ARMENIA – All sides need to exercise restraint, mutual respect and constructive institutional co-operation - Statement by President Buquicchio - 29/10/2019



"I have been closely following the situation in Armenia for several months already.

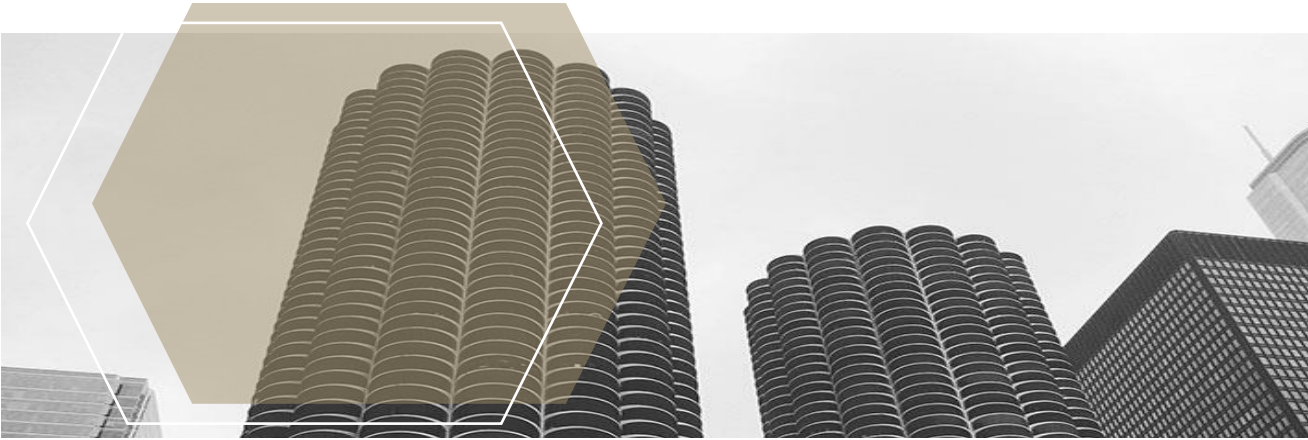
I am very preoccupied about the open conflict between on the one side the Government and Parliament and on the other side the Constitutional Court. The quick succession and mediatisation of recent events do not contribute to a serene settlement of the problems.

In a Democracy, the parliament is the depository of popular sovereignty and thus enjoys the highest democratic legitimacy. The constitutional court is a safeguard institution, entrusted with upholding constitutional values.

In a democratic country, all State institutions and office holders have to respect their own prerogatives, obligations and competences and acknowledge and respect those of the other institutions. They have to exercise appropriate institutional restraint, observe the relevant procedures in good faith and display respect for each other.

If this is not done, if there lacks democratic culture and maturity, the functioning of the state institutions is compromised and the democratic, civil and economic progress of the society is jeopardised.

I call on all sides to exercise restraint, mutual respect and constructive institutional co-operation in order to de-escalate this worrying situation and re-establish the normal operation of the constitution of Armenia."



IN THE PIPELINE: OPINIONS AND STUDIES

Opinions

- **Bosnia and Herzegovina** – freedom of assembly;
- **Bulgaria** - Criminal Procedure Code and the Judicial System Act on Criminal Investigation against Top Magistrates;
- **Moldova** - the Law on the Prosecutor’s Office and the Criminal Liability of Constitutional Court Judges ;
- **Spain** – “Citizens’ security law”;
- **North Macedonia** – the Law on the use of languages;
- **Ukraine** – Law on “Ensuring the functioning of the Ukrainian language as a State language”; legal framework governing the Supreme Court and bodies of judicial governance; early termination of the mandate of members of parliament.

STUDIES

ELECTORAL ISSUES

- Local recall referendum
- Election dispute resolution
- Political parties - Joint CDL-OSCE/ODIHR Guidelines - revision
- Referendums
- Social media in elections
- Use of digital technologies and elections

CONSTITUTIONAL JUSTICE

- Composition of Constitutional Courts - update
- Individual access to constitutional justice - update

DEMOCRATIC INSTITUTIONS AND FUNDAMENTAL RIGHTS

- Freedom of peaceful assembly – joint CDL-OSCE/ODIHR guidelines - revision
- Gender equality
- Compliance with Council of Europe and other international standards of the inclusion of a not internationally recognised territory in a state’s nationwide constituency for parliamentary elections

COMPILATIONS

- Courts and judges (update)
- Separation of powers