



Address by Mr Gianni Buquicchio
President of the Venice Commission
presenting its Annual Report of Activities for 2014
to the Committee of Ministers
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Mr Chairman, Ambassadors, Ladies and Gentlemen,

25 years ago, at the end of May 1990, a few months after the fall of the Berlin wall, the first session of the Venice Commission, following the adoption of its Statute by the Committee of Ministers, took place in Venice. Compared to today, it was a modest meeting with only 16 members present at the time.

However, it was a time of great enthusiasm. The Charter of Paris for a new Europe, adopted by the CSCE a few months later, outlined a new future for our continent.

Everything seemed possible. The countries of Central and Eastern Europe were keen to embrace the values of the Council of Europe and it was apparent that our Commission would play an important role in accompanying them on their path towards European integration.

The conflicts in former Yugoslavia, especially the war in your country, Mr Chairman, were a first sign that there would be setbacks and obstacles on the road ahead.

Today, we are once again, confronted with armed conflict in Europe, and the agenda is dominated by attempts to limit the damage and prevent setbacks.

In his Report on the State of Democracy, Human Rights and the Rule of Law in Europe, the Secretary General rings alarm bells with respect to a number of developments that threaten some of the cornerstones of a democratic system, such as the independence of the judiciary and freedom of expression, association and assembly.

With some notable exceptions, the Arab spring has not fulfilled the high hopes of the people and has led, in some countries, to bloodshed and more suffering.

These developments cannot be a reason to renounce our values, to which we remain committed, and abandon our efforts to assist countries. On the contrary, in such situations persistence and coherence are of the essence.

The Venice Commission has been sending the same message, based on the Council of Europe values of democracy, human rights and the rule of law, for many years. This consistency makes our message credible and effective, if not immediately, then in the medium term.

Let me give you two examples:

In Armenia we are currently involved in a comprehensive constitutional reform. This is a very promising process. We will provide an opinion on the draft, which is currently being prepared, in the coming months.

Based on the texts we have seen, our opinion is likely to be very positive. In fact, this reform is taking up unfinished business from the previous constitutional reform of 2005, in which we were also involved.

It takes up those recommendations of our Commission, which could not immediately be implemented at the time, and brings them together with ideas for reform by domestic actors, reflecting the experience gained in the country in recent years.

The second example concerns Ukraine. You are all aware that our Commission is involved in the current constitutional reform process. There are still many uncertainties in this process, but one thing is already apparent: in the discussions in the Constitutional Commission and its working groups, constant reference is made to the recommendations of the Venice Commission.

Where do we stand at the moment?

The Constitutional Commission is working on amendments to several chapters of the Constitution. At least with respect to decentralisation, the Commission intends to finalise the text and submit it to the President in the coming days. With respect to the reform of the judiciary, it is less likely, but not excluded, that the Commission will manage to do so as well.

Parliament could then examine the text and send it both to the Venice Commission and the Constitutional Court by mid-June. We would then provide a preliminary opinion in the first half of July, enabling Parliament to adopt the text or texts in the first reading before the summer break.

Under these circumstances, the final adoption of a first set of constitutional amendments could take place after the summer holidays, in line with the timeline provided by the Minsk Agreements and before the local elections foreseen for October.

In this context it is welcome that at least one of the proposals to revise the law on local elections submitted last week to the Verkhovna Rada reflects previous Recommendations of the Venice Commission. We have worked with the authors of the draft and hope that a revised law will be adopted quickly and ensure that the forthcoming elections will be free and fair.

Another item, with which we are dealing in Ukraine, is the so-called lustration law. You may be aware that the Commission adopted, in December a quite critical interim opinion on this Law as it currently stands.

At the time, we agreed with the Ukrainian authorities to continue our co-operation, and they promised to revise the Law in light of our opinion.

Following several rounds of discussions, we have now received the draft amendments prepared by the Ukrainian authorities. We will adopt an opinion on these amendments at our forthcoming session, on 19 June.

It is not an easy file, since this is not a “normal” lustration law, which only deals with a number of politically compromised officials, but it is a law aimed mainly at cleaning up a deeply corrupt system.

Mr Chairman,

While I have dwelt on Ukraine as the country which is currently the focus of attention, I will not address the manifold activities we undertook in 2014 and in the first months of this year. I will limit myself to a few main highlights and tendencies and refer you to our written report for more detailed information.

Our work very much confirms the conclusion of the Report of the Secretary General that the main challenge in many countries is to reform the judiciary. I mentioned this already as a priority for the constitutional reform in Ukraine.

But, it is also a priority for many other countries and you will find many references to judicial reform in our Annual Report.

The European Union is inviting, fairly systematically, candidate countries to co-operate in this respect with the Venice Commission.

Traditionally, our focus has been to ensure the independence of the judiciary from the executive and legislative powers.

This remains fundamental, but we increasingly stress the need to also ensure the internal independence within the judiciary – judicial independence is the independence of each individual judge and the judiciary should not be seen as a hierarchy – as well as the need to safeguard the impartiality of the judiciary by addressing judicial corruption.

This requires a balanced approach. The rule which seems most favourable for the judges is not necessarily the best one. On the other hand, the need to safeguard the independence of anti-corruption prosecutors or bodies is a new item on our agenda.

As regards human rights, we see more and more challenges to freedom of association. In particular, states try to limit – or eliminate – foreign support for domestic associations. We have seen this both in Council of Europe member states and in neighbouring countries such as Egypt or Kyrgyzstan.

While we in no way dispute the need for regulation and transparency as regards the funding of NGOs from foreign sources, excessive controls and restrictions impede the development of civil society and are not in conformity with the European Convention on Human Rights.

In addition to our opinions on relevant legislation we prepared, as part of our exemplary co-operation with ODIHR, joint Guidelines on Freedom of Association which should be useful for national legislators.

Issues relating to religious communities are often particularly controversial and we therefore adopted Joint Guidelines with ODIHR on the Legal Personality of Religious or Belief Communities.

With our update of the Report on the democratic control of security services and our Report on the democratic control of signals' intelligence, adopted at our last session, we contributed at a crucial moment to the debate on a topic, which is of particular significance throughout Europe.

Mr Chairman,

I am aware that your Committee, in particular in the GR-DEM, pays a lot of attention to electoral issues. You are therefore well informed about our electoral activities, which we carry out in close co-operation with ODIHR as well as the Parliamentary Assembly and the Congress in the framework of our Council for Democratic Elections.

While there has been a lot of progress as regards the electoral legislation, a lot remains to be done to ensure that all elections in all member states are free and fair and that people have trust in the fairness of the electoral process. It is therefore very welcome that the new Eastern Partnership framework includes bilateral activities on electoral reform.

I'd also like to pay tribute to a recent decision by the Constitutional Court of Georgia which obliges the Georgian parliament to address the issue of the gross inequality of the electoral constituencies. The Venice Commission had strongly criticised this inequality in its opinions and this shows the synergies between our activities in the electoral field and on constitutional justice.

While there are several actors in the electoral field, the Venice Commission is without doubt the leading body concerning constitutional justice at the international level.

This is the case not only in Europe, but world-wide. Last year we organised together with the Constitutional Court of Korea the 3rd Congress of the World Conference on Constitutional Justice. The World Conference now has 96 member courts from 94 countries.

The World Conference is a unique tool to spread Council of Europe values on other continents. It makes the Council of Europe and our Commission known outside Europe and provides us with partners, that are not only willing, but also eager to co-operate.

This has been extremely useful in the neighbourhood since, thanks to our contacts with constitutional courts, we were already known and respected in the Arab countries long before the Arab spring.

Our contacts with the Constitutional Council of Morocco opened many doors in this country and we hope that our close contacts with the Algerian Constitutional Council will facilitate the start of co-operation with this country in the near future.

Constitutional justice is also a main field of co-operation in the neighbourhood. The Tunisian authorities have asked us for assistance in the drafting of the new Law on the Constitutional Court and the Constitutional Court of Jordan is our main partner in the Kingdom.

The same applies in Central Asia, where notably the Constitutional Council in Kazakhstan and the Constitutional Chamber of the Supreme Court in Kyrgyzstan are main partners of our Commission.

Among the Central Asian countries, Kyrgyzstan is the most open to co-operation. Currently we are preparing an opinion on planned constitutional amendments in this country, which appear quite problematic.

The European Union envisages funding a new joint programme specifically for Kyrgyzstan and I would like to seize this opportunity to thank, through the ambassadors present, the European Union, Finland and Turkey for their financial support for our activities in Central Asia.

As regards the Southern Neighbourhood, my thanks go again to the European Union and to Norway for their support. The governments of Azerbaijan and Luxembourg supported activities in Europe, and Italy the holding of our plenary sessions. I would like to thank them all.

This brings me to the issue of finance and our budget. The decision of the Turkish authorities to become a major contributor not only to the ordinary budget of the Council of Europe, but also to the budgets of partial and enlarged agreements, provides us with some breathing space and will allow us to maintain the current level of activities. This is a lucky coincidence, but only a short term solution.

The history of the Venice Commission has witnessed a steady increase in the demands for its involvement. There is no indication that the Commission will be less solicited in the future than it is today.

If the zero nominal growth policy were pursued for a longer period, this would make it impossible for our Commission to carry out all the tasks which will be expected from it. In the future, if you consider the activities of our Commission to be priorities, you will have to reflect this in your budgetary decisions.

Mr Chairman, Ladies and Gentlemen,

I thank you for your attention and I look forward to your questions and comments.