Dear participants,

It is a pleasure for me to intervene today before you, since you are at the crossroad of two essential aspects of the Venice Commission’s activity: electoral matters and judiciary.

Both are indeed essential to ensure democracy through law - the very aim of the Commission I preside. There is no democracy without elections, more precisely without elections held in conformity with international standards.

There is no rule of law if law is not properly law, if it is *lex imperfecta*, without a possibility for judicial redress.

So there is no democracy through law without judicial supervision of the electoral process.

*Quod erat demonstrandum*, mathematicians would say – and specialists of the electoral process, of the electoral system, are mathematicians as well as lawyers (few are both, however, like Victor d’Hondt!)
The Venice Commission co-organises the World Conference of Constitutional Justice. Since constitutional judges are in charge of electoral disputes in a number of countries, I see here a number of familiar faces.

Some countries have specific electoral courts (mainly in Latin America), while others entrust this task to so-called ordinary judges.

The present conference will enable a meeting of judges with such different backgrounds, which will be enriching.

The Venice Commission has also been active in the electoral field for more than a quarter of a century.

The last conference of the European Management Bodies which we organised in Bratislava in June 2019 addressed election dispute resolution.

We are now preparing a report on this important topic, which will provide a comparative analysis on such issues as competent bodies, grounds for complaints and decisions open to challenge, time-limits and decision-making power. This could lead to recommendations at a later stage. But do not be nervous: we will not say that one of the models (constitutional justice, ordinary justice or specialised courts) is the best one!

In relation or not with electoral disputes, the Venice Commission has regularly addressed the themes to be discussed here this week. And these themes are all really topical for the integrity of the electoral process.

First, the Venice Commission closely monitors the electoral processes of the year, by providing legal assistance to the election observation missions of the Parliamentary Assembly.
Recurrent issues appearing in the most recent reports by the Parliamentary Assembly of the Council of Europe as well as OSCE/ODIHR remain (massive [Moldova]) misuse of administrative resources, vote-buying, alleged partiality of the election administration, disrespect for rules on media access for electoral competitors [Ukraine]; the financing of parties and campaigns [Ukraine, MKD, Moldova], pressure on candidates from businesspeople and intimidation of voters; attacks on journalists [Moldova]; inconsistent verification of signatures supporting the candidates [Moldova]; violation of the secrecy of the vote [Ukraine], shortcomings in the process of election dispute resolution [Moldova], including conflicts of competence [Ukraine] or no appeal against the final results and lengthy proceedings [Lithuania], insufficient professionalism and means of the election administration [Moldova], new issues raised by online election campaigns, not regulated in the law [Spain].

These are actually recurrent problems which will not disappear overnight. However, when dealing with electoral complaints, you can make them much more seldom.

The issue of social media and elections has been at the centre of a report adopted by the Venice Commission in June 2019, more precisely entitled “report on digital technologies and elections”.

The Commission acknowledged that the internet and social media have enabled unprecedented number of individuals to become directly involved in day-to-day politics.

However, the Commission underscored the need to maintain the balance between representative democracy and these aspirations.

It has also warned about the effects of polarisation and fragmentation that the use of the internet and social media create on electoral campaigns.
Through disinformation, through the commercialization of big data and through micro-targeted political advertising, social media may blur the lines between responsible democratic debate and illegitimate interference in elections. Influence may therefore become interference.

Cyber-attacks may also threaten the integrity of the electoral processes, when they are used to suppress voter turnout, to tamper with election results, to steal voter information, and to conduct cyber espionage of personal and political information for the purposes of coercion and manipulation.

What is at stake is the trust of the people in the elections. But it is essential to continue to guarantee freedom of expression. Preventing cyber-enabled threats and disinformation must not lead to curbing it.

The role of the state in the prevention of disinformation and manipulation of voters’ behaviour is a complex matter that certainly requires a lot of further reflection.

The Venice Commission is working on the identification of a set of principles for a fundamental rights-compliant regulation of the use of digital technologies in electoral processes.

The mechanisms of representation are at the centre of the work of the Venice Commission in the electoral field. Since we started providing legal opinions in this field more than 25 years ago, the discussion on the electoral system has been central.

The Venice Commission has addressed a number of aspects of the electoral systems in a comparative way, in particular the issues of thresholds and allocation of seats inside the lists.
It is however very cautious when making recommendations: it does not recommend a specific electoral system and is critical only when it appears that an electoral system would lead to distortions of democracy: for example, it advised not to use mixed systems (including plurality vote in one-member constituencies) in Ukraine and in the Republic of Moldova, since these systems could be vulnerable to undue influence and manipulation by well-resourced local businesspeople (in the former country on the basis of previous negative experience; and the latter this fear was confirmed by what happened in this year's elections; fortunately the law was changed again later).

It is also important to ensure meaningful consultation and broad consensus among key stakeholders when changing the system.

*Equality in elections* was the subject of the last Scientific Electoral Experts’ Debates, an event the Venice Commission now organises on a biennial basis. The Venice Commission, in its Code of Good Practice in Electoral Matters, has identified international standards, which include the prohibition of inequalities of representation exceeding 15 %, save for really exceptional circumstances and the need for a revision of the distribution of seats at least every ten years; equality in the election campaign, coverage by the media – at least public ones - and public funding; the admissibility of some rules in favour of the representation of minorities and gender parity.

The Commission has adopted a report on constituency delineation and seat allocation; where it underlines, for example, that political gerrymandering - often considered as non-justiciable - goes against the principle of equality of opportunity.

These are issues which can come – and already came – before constitutional courts and courts of equivalent jurisdictions: they have had to deal with equal suffrage under a number of aspects, from the admissibility of gender quota to the need for a proportional representation of parties.
The issue of *corruption* is not at the centre of the Venice Commission’s work – since there is a specific body dedicated to this problem in the Council of Europe, the GRECO – but it appears in the background of its opinions and reports.

This is particularly true in the reports and opinions on political party issues, which cannot be separated from electoral matters.

Recommendations to ensure transparency of private funding, or ceilings for the total amount given to a political competitor and its spending, and still more for individual donations, are mainly intended at fighting corruption in the electoral process.

The Venice Commission has also elaborated guidelines on the misuse of administrative resources.

Ladies and Gentlemen,

What I have told about the activity of the Venice Commission in the electoral field shows that we have common concerns. This will enable us to share our experiences.

In particular, it will be extremely interesting for the Venice Commission to get better acquainted with the case-law on all crucial issues of the electoral process which will be addressed today and tomorrow.

It is therefore now time for me to listen to you.