



CDL(2019)003*

Strasbourg, March / mars 2019

Or. Engl./Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

COMMISSION EUROPEENNE POUR LA DEMOCRATIE PAR LE DROIT
(COMMISSION DE VENISE)

DRAFT ANNUAL REPORT OF ACTIVITIES 2018

/

PROJET DE RAPPORT ANNUEL D'ACTIVITES 2018

**This document has been classified restricted on the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

This document will not be distributed at the meeting. Please bring this copy.

www.venice.coe.int

Contents

I. WORKING FOR DEMOCRACY THROUGH LAW - AN OVERVIEW OF VENICE COMMISSION ACTIVITIES IN 2018	6
1. KEY FIGURES	6
2. VOLUNTARY CONTRIBUTIONS.....	6
3. MAIN ACTIVITIES	6
Democratic institutions and fundamental rights	6
Constitutional reforms	6
Democratic institutions and fundamental rights	7
Judicial reforms.....	8
Constitutional justice	8
Elections, référendums et partis politiques.....	9
Législation et pratiques électorales	9
Partis politiques	9
Sharing European Experience with non-European countries	9
Mediterranean Basin.....	9
Central Asia	10
Latin America.....	10
Scientific Council.....	10
II. CONSTITUTIONAL REFORMS, STATE INSTITUTIONS, HUMAN RIGHTS AND THE JUDICIARY	12
1. COUNTRY SPECIFIC ACTIVITIES	12
1.1. Constitutional reforms, state institutions, check and balances	12
Albania	12
Georgia.....	12
Malta.....	13
Republic of Moldova	14
Serbia	15
1.2. Fundamental rights	16
Armenia	16
Hungary.....	17
Malta.....	18
North Macedonia	18
Romania	19
1.3. Judiciary.....	20
Georgia.....	20
Kazakhstan.....	20
Montenegro	21
Morocco.....	21
North Macedonia	21
Poland	22
Romania	22
2. TRANSNATIONAL ACTIVITIES	23
2.1. Reports and studies	23
Freedom of assembly	23
Ombudsman Institutions	24
Funding of associations	24
Recall of mayors and other local representatives.....	24
Interrelation majority - opposition	24
2.2. Compilations of Venice Commission opinions and reports	24
III. CONSTITUTIONAL JUSTICE	25

1. OPINIONS, REPORTS AND CONFERENCES / MEETINGS / AVIS, RAPPORTS ET CONFÉRENCES / REUNIONS	25
Report on separate opinions (CDL-AD(2018)030)	25
Andorra	25
Armenia	25
Azerbaijan	26
Bolivia	27
Czech Republic	27
Egypt	27
Angola	28
Georgia	28
Jordan	29
Kazakhstan	30
Korea	30
Kosovo	30
Latvia	31
Malta	31
Panama	31
Russian Federation	31
Slovakia	32
Turkey	32
Ukraine	33
2. JOINT COUNCIL ON CONSTITUTIONAL JUSTICE (JCCJ)	33
3. E-BULLETIN ON CONSTITUTIONAL CASE-LAW AND THE CODICES DATABASE	34
4. VENICE FORUM	35
5. REGIONAL CO-OPERATION	36
Association of Asian Constitutional Courts and Equivalent Institutions (AACC)	36
Association of Constitutional Courts using the French Language (ACCPUF)	36
Conference of the Constitutional Control Organs of the Countries of New Democracy (CCCOCND)	37
Conference of Constitutional Jurisdictions of Africa (CCJA)	37
Conference of European Constitutional Courts (CECC)	37
Conference of Constitutional Courts of Portuguese Speaking Countries (CJCPLP)	38
Ibero-American Conference of Constitutional Justice (CIJC)	38
Southern African Chief Justices Forum (SACJF)	38
Union of Arab Constitutional Courts and Councils (UACCC)	38
6. WORLD CONFERENCE ON CONSTITUTIONAL JUSTICE (WCCJ)	39
IV. ELECTIONS, REFERENDUMS AND POLITICAL PARTIES / ELECTIONS, REFERENDUMS ET PARTIS POLITIQUES	40
1. COUNTRY SPECIFIC ACTIVITIES / ACTIVITÉS PAR PAYS	40
Albania	40
Armenia	40
Azerbaïdjan	41
Bosnie-Herzégovine	41
Egypte	42
Géorgie	42
Italie	42
Kirghizistan	42
Kosovo	42
Mexique	42
Monténégro	43
Republic of Moldova	43
Macédoine du Nord	43
Norvège	43
Tunisie	44
Turkey	44
Ukraine	44

Uzbekistan	46
2. TRANSNATIONAL ACTIVITIES / ACTIVITÉS TRANSNATIONALES	46
1.2. Studies and reports	46
2.2. Compilation of Venice Commission opinions and reports concerning new technologies in the electoral process (CDL-PI(2018)011)	48
2.3. Conférences co-organisées par la Commission	48
3. VOTA, BASE DE DONNÉES ÉLECTORALE DE LA COMMISSION	50
4. COOPERATION INTERNATIONALE	50
5. AUTRES CONFÉRENCES ET RÉUNIONS	50
Commission européenne	50
Albanie	50
Égypte	51
Géorgie	51
Kosovo	51
Montenegro	51
Roumanie	51
OSCE/BIDDH	51
Ouzbékistan	51
Assistance juridique aux missions d'observation de l'APCE	51
V. CO-OPERATION IN THE COUNCIL OF EUROPE NEIGHBOURHOOD AND OUTSIDE EUROPE	52
1. MEDITERRANEAN BASIN	52
Country-specific activities	52
Egypt	52
Jordan	52
Libya	53
Maroc	53
Tunisia	54
Regional cooperation	55
Campus UniDem Med	55
6 th Intercultural workshop on democracy (Tunis, 14 – 15 November 2018)	55
2. LATIN AMERICA	55
Bolivia	55
Mexico	56
3. CENTRAL ASIA	56
Country-specific activities	57
Kazakhstan	57
Kyrgyzstan	57
Uzbekistan	59
4. OTHER CONFERENCES AND MEETINGS	59
Dominican Republic	59
Egypt	59
Kazakhstan	60
Mexico	60
Morocco	60
VI. CO-OPERATION BETWEEN THE COMMISSION AND ORGANS AND BODIES OF THE COUNCIL OF EUROPE, THE EUROPEAN UNION AND OTHER INTERNATIONAL ORGANISATIONS	61
1. COUNCIL OF EUROPE	61
Committee of Ministers	61
Parliamentary Assembly	61
Opinions requested by the Assembly	62
Promoting European standards together	62
Cooperation in the field of elections	64
Congress of Local and Regional Authorities of the Council of Europe	64
European Court of Human Rights	65
Commissioner for Human Rights	67
Other Council of Europe organs	67

Gender Equality Commission.....	67
Children's Rights Division	68
Council of Europe Development Bank	68
Commission européenne pour l'efficacité de la justice (CEPEJ)	68
Consultative Council of European Judges (CCJE)	68
Group of States against Corruption (GRECO)	68
North South Centre	68
Steering Committee for Human Rights.....	68
Youth Department – Directorate of Democratic Participation, DG Democracy	69
2. EUROPEAN UNION	69
European Parliament.....	70
Seminars and conferences	71
Joint European Union – Council of Europe Projects	71
“Ensuring sustainable democratic governance and human rights in the Southern Mediterranean” (a segment of the South Programme III)	72
Horizontal Facility for the Western Balkans and Turkey	72
Partnership for Good Governance	72
“Support to strengthening democracy through electoral reform in the Kyrgyz Republic”	73
EU Agency for Fundamental Rights and the European Ombudsman.....	73
3. OSCE	73
Protection of fundamental rights.....	74
Joint opinions.....	74
Joint Guidelines on the freedom of peaceful assembly	74
Elections, referendums and political parties	74
Joint opinions.....	74
Seminars and conferences	75
4. UNITED NATIONS.....	75
Haut-Commissariat aux droits de l’homme, Rapporteur spécial sur la situation des défenseurs des droits de l’homme.....	75
United Nations Development Programme (UNDP)	76
UN Global Judicial Integrity Network	76
United Nations Support Mission in Libya (UNSMIL)	76
5. CO-OPERATION WITH OTHER INTERNATIONAL ORGANISATIONS.....	76
Associations of Constitutional Courts.....	76
Association des Ombudsmans de la Méditerranée (AOM)	76
Association of Ombudsmen and Mediators of the Francophonie (AOMF)	77
Fédération ibéro-américaine des ombudsmans (FIO)	77
Autres institutions internationales d’ombudsman	77
Association des administrateurs européens d’élections (ACEEEO)	77
International Foundation for Electoral Systems (IFES).....	77
International IDEA.....	78
League of Arab States	78
Konrad Adenauer Stiftung.....	78
OECD	78
Organisation of American States (OAS).....	78
Organisation of Electoral Management Bodies of Arab countries.....	78
International Organisation of La Francophonie (OIF)	79
Union of Administrative Justice	79
APPENDIX I - THE VENICE COMMISSION: AN INTRODUCTION	80
APPENDIX II - MEMBER COUNTRIES	86
APPENDIX III - INDIVIDUAL MEMBERS.....	87
APPENDIX IV - OFFICES AND SUB-COMMISSIONS 2018.....	94
APPENDIX V - PUBLICATIONS	96
APPENDIX VI - DOCUMENTS ADOPTED IN 2018	99

I. WORKING FOR DEMOCRACY THROUGH LAW - AN OVERVIEW OF VENICE COMMISSION ACTIVITIES IN 2018

1. KEY FIGURES

The Venice Commission adopted 35 texts in 2018, including eight documents on constitutional reforms and constitutional amendments concerning Georgia, Malta, the Republic of Moldova and Serbia as well as a report on the term limits of the presidents, eight opinions on fundamental rights and democratic institutions, six opinions and one report on electoral matters and 10 texts on the judiciary and prosecutor's service, including one *amicus curiae* brief and a report. In addition, the Commission (co)organised 36 meetings and participated in 116 other events, including in 7 PACE election observation missions.

The Commission published one special and three regular Bulletins on Constitutional Case Law and collected comparative law elements for constitutional courts and equivalent bodies in 35 cases. In 2018, the Supreme Constitutional Court of Palestine¹ and the Supreme Court of Finland joined the World Conference on Constitutional Justice (WCCJ), bringing the total number of members to 114 in December 2018. The number of judgments available in the constitutional law database CODICES reached 10,000 in 2018.

2. VOLUNTARY CONTRIBUTIONS

In 2018 the Commission received voluntary and "in kind" contributions from the Italian government (*Regione Veneto and Ministry of Foreign Affairs*) for the organisation of the plenary sessions, as well as voluntary contributions from

- Sweden for a number of specific activities
- Mexico for activities in Latin America
- Germany for a number of specific activities
- Malta for activities in the Southern Mediterranean region
- Norway for co-operation with the countries of the Southern Mediterranean
- The *Organisation internationale de la francophonie* for translations into French for the Bulletin on Constitutional Case Law
- Unearmarked contributions from Armenia, Italy and Ukraine

The Commission also implemented a number of activities in Ukraine thanks to the contributions from the Council of Europe Action Plan for Ukraine.

Certain activities, in particular in Kyrgyzstan, the Western Balkans and the countries of the Eastern Partnership, were financed by the European Union in the framework of Joint Projects and Programmes.

3. MAIN ACTIVITIES 2018

Democratic institutions and fundamental rights

Constitutional reforms

In 2018, the Commission examined the draft constitutional amendments which would have enabled the vetting of politicians in **Albania**, initiated by the Albanian parliamentary opposition.

¹ This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of Council of Europe member States on this issue.

In 2018, the Commission adopted a third opinion concerning the constitutional reform in **Georgia**²; these constitutional amendments enabled the political parties, for the 2020 parliamentary elections exclusively, to form electoral blocks and provided for an election threshold for smaller parties.

The 2018 opinion on **Malta** addressed a large spectrum of constitutional issues, including the operation of the Judicial Appointments Committee, status of the Director of Public Prosecutions, the position of the President of the country, reduction of the appointment powers of the Prime Minister, and enhancing of controlling powers of Parliament.

Two opinions concerning constitutional amendments in the **Republic of Moldova** were examined in 2018: one added the freedom of association to the current constitutional provision guaranteeing the freedom of assembly. Another opinion concerned the judiciary (the removal of probationary periods for judges and the introduction of the functional immunity of judges at the constitutional level).

The Venice Commission examined the revision of constitutional provisions on the judiciary of **Serbia**, and made recommendations regarding the composition of the High Prosecutorial Council and the High Judicial Council, the selection of public prosecutors, the grounds for the dismissal of judges and of deputy public prosecutors as well as the method to ensure uniform application of laws. The Serbian government revised the draft amendments to the Constitution, taking the Commission's opinion fully into account.

Democratic institutions and fundamental rights

In 2018, the Commission evaluated the law of **the Republic of Moldova** on preventing and combatting terrorism. It examined the powers the law gave to the Security and Information Service, the system of parliamentary oversight of this Service, the definition of terrorism, and the special legal regime of anti-terrorist operations.

The Commission adopted, jointly with the OSCE/ODIHR, an opinion on the Draft Law amending the law of **Armenia** on freedom of conscience and on religious organisations, focusing on the criteria for the registration of religious organisations, the status and privileges enjoyed by the Holy Apostolic Church of Armenia, the distinction between acceptable and improper proselytism, the scope of rights and advantages enjoyed by registered and unregistered religious groups.

Several opinions adopted in 2018 concerned the right to freedom of association (**Romania, Ukraine and Hungary**), and more particularly reporting and disclosure obligations imposed on NGOs regarding their funding (notably foreign funding) as well as restrictions on NGOs' ability to seek and secure funds for their activities, and the special taxation regime for the NGOs.

In an opinion on **Malta**, the Venice Commission examined constitutional and legislative amendments aimed at the creation of a Human Rights and Equality Commission, a multi-mandate body with broad powers in the field of equality and non-discrimination, as well as re-defining and extending the notions of equality and non-discrimination to new fields.

The Venice Commission also examined in 2018 a draft law of **North Macedonia**, aimed at establishing a more effective system for the protection and prevention from discrimination.

At the request of the Organization of American States (OAS), in **2018** the Venice Commission prepared a **report on the term-limits of presidents of states**, where it was concluded that such term-limits protect other constitutional principles such as checks and balances and the separation of powers, and do not unduly restrict aspirant candidates or voters' human and political rights.

² Cf. two previous opinions CDL-AD(2017)023 and CDL-AD(2017)013.

Judicial reforms

In 2018 the Venice Commission examined a number of reforms concerning the constitutional status of the judiciary and of the bodies of judicial governance (**Republic of Moldova, Serbia, and Malta**).

At the legislative level, the Venice Commission analysed the most recent changes made to the Law on Courts and Law on the Judicial Council of **North Macedonia**.

The Commission also adopted an opinion on the amendments to the law on the Judicial Council and Judges of **Montenegro**, relating to the difficulty of achieving the constitutionally required a two-thirds majority in electing the lay members of the Judicial Council, in a situation where the opposition boycotted Parliament.

In an opinion on **Romania**, the Venice Commission examine three drafts on the status of judges and prosecutors, on the judicial organisation and on the Superior Council of Magistracy. In another opinion on Romania, the Commission scrutinized recent draft amendments to the Romanian Criminal and Criminal Procedure Codes in light of the effectiveness of the Romanian criminal justice system in the fight against corruption and organised criminality.

The Commission also examined provisions on the Prosecutorial Council in the draft law of **Georgia** on the Prosecutor's Office and on the provisions on the High Council of Justice in the Law on General Courts.

An opinion on the concept paper on the reform of the High Judicial Council of **Kazakhstan** analysed a set of measures (aimed at increasing the role of this body in the recruitment and promotion of judges, and changing the process of selection of young judges in order to increase their professionalism. Another opinion on Kazakhstan concerned the Administrative Procedure and Justice Code.

Constitutional justice

On 14 November 2018, the President of the Venice Commission published a statement urging the establishment of the Constitutional Court provided for by the Constitution of Tunisia and that it begin to exercise its functions as soon as possible.

The Venice Commission's other activities in the field of constitutional justice in 2018 include:

The CODICES database, which is the focal point for the work of the Joint Council on Constitutional Justice (see below), as well as the World Conference on Constitutional Justice (see below), makes it possible to access around 10 000 constitutional judgments for mutual inspiration and which also serve as a common basis for dialogue among judges in Europe and beyond.

The Commission's Venice Forum dealt with 35 comparative law research requests from constitutional courts and equivalent bodies covering questions which ranged from the status of the Church of the Flying Spaghetti Monster, remuneration of prisoners' labour, transgender rights, the status of refugees to the constitutionality of a referendum and State decorations.

The Commission also co-organised or participated in conferences and seminars in 18 countries.

In March 2018, the Bureau of the World Conference on Constitutional Justice (WCCJ) met in Venice and approved, *inter alia*, the topic for the 5th Congress, which is "Constitutional Justice and Peace" (see below III.6).

Elections, référendums et partis politiques

En 2018, la Commission a poursuivi ses activités en matière électorale et de partis politiques. Elle a adopté un rapport sur les limitations de mandat (Partie I – Présidents) et un rapport sur l'identification des irrégularités électorales par des méthodes statistiques. Elle a également adopté cinq avis dans le domaine des élections et des partis politiques, relatifs au **Kosovo**, à la **République de Moldova**, à la **Tunisie**, à la **Turquie** et à l'**Ouzbékistan**. Le Conseil des élections démocratiques a adopté ces avis et rapports avant qu'ils ne soient soumis à la Commission plénière (sauf l'avis sur la Tunisie qui a été soumis à la sous-commission sur le bassin méditerranéen).

Même si des améliorations de la législation électorale restent souhaitables, voire nécessaires, dans plusieurs Etats, les problèmes à régler portent de plus en plus sur l'application de la législation et non sur sa teneur. En 2018, la Commission a donc continué à aider les Etats membres du Conseil de l'Europe à appliquer les normes internationales dans le domaine électoral tout en poursuivant sa coopération avec les pays non européens, notamment dans le Bassin méditerranéen et en Asie centrale.

Législation et pratiques électorales

La Commission a adopté des avis sur la législation électorale de la **République de Moldova**, de la **Turquie** et de l'**Ouzbékistan**. La Commission a organisé des activités d'assistance électorale et des séminaires en matière électorale en Albanie, au Kirghizistan, en Lybie et en Ukraine.

Elle a aussi organisé, en coopération avec la Section des élections du Ministère des collectivités locales et de la modernisation de Norvège, la 15e Conférence européenne des administrations électorales à Oslo, de même que, en coopération avec l'Autorité électorale permanente de Roumanie, les deuxièmes entretiens scientifiques des experts électoraux.

La Commission a apporté une assistance juridique à sept missions d'observation électorale de l'Assemblée parlementaire.

La base de données VOTA sur la législation électorale, qui continue d'être gérée conjointement par la Commission et le Tribunal électoral du pouvoir judiciaire de la Fédération mexicaine, a été mise à jour.

Partis politiques

La Commission a adopté des avis sur le financement et/ou l'organisation des partis politiques au Kosovo et en Tunisie. La Commission a coopéré avec l'OSCE/BIDDH à la révision des lignes directrices conjointes sur la réglementation des partis politiques.

Sharing European Experience with non-European countries

Mediterranean Basin

In 2018, the Venice Commission continued and further developed its co-operation with the countries of the Southern Mediterranean. Several successful projects were developed in Egypt, Jordan, Morocco and Tunisia. The Venice Commission organised several regional activities and provided expert assistance to the EU and UNSMIL working on electoral legislation in Libya.

The Venice Commission continued its dialogue with the Tunisian authorities on the legal framework for the new Constitutional Court in line with the 2014 constitution. At the request of the authorities, an opinion on the draft law on political parties was prepared. The Commission also co-operated with Tunisia on issues related to the establishment and operation of the independent institutions. The dialogue with the Moroccan authorities continued in fields such as

the reform of the judiciary, notably on the preliminary request of constitutionality. In Jordan the Commission continued its fruitful co-operation with the Constitutional court of Jordan.

In 2018 the Commission continued to organise regional activities, including such important projects as the UNIDEM seminars for the countries of the MENA region and participation in the meetings and exchanges of views with the Organisation of Electoral Management Bodies of Arab countries. These multilateral activities saw an increased participation of various representatives of the national authorities and academia from Algeria, Egypt, Jordan, Lebanon, Libya, Morocco, Palestine² and Tunisia. Egypt engaged more actively in the Venice Commission's various co-operation activities.

Central Asia

In 2018, the Venice Commission continued to co-operate with the national institutions of Kazakhstan, Kyrgyzstan and Uzbekistan, notably in the framework of several projects with funding provided by the European Union as well as some member states.

The Venice Commission continued to organise activities in the framework of the project "Support to strengthening democracy through electoral reform in the Kyrgyz Republic". The project is aimed at helping the country's authorities to elaborate a comprehensive strategy and to reform the electoral legislation and practice in accordance with international standards by making tools and expertise available to national institutions involved in the electoral reform.

In the absence of joint projects aimed at the Central Asian region in 2018, the Venice Commission continued bilateral co-operation with higher judicial bodies of the five countries of the region which show continued interest in the Venice Commission's assistance. In 2018 the Commission adopted opinions on the draft Administrative Procedure and Justice Code and on the Concept Paper on the reform of the High Judicial Council of Kazakhstan, as well as the electoral legislation of Uzbekistan.

Latin America

In 2018 the Venice Commission continued to develop its co-operation with the countries of Latin America, notably with Bolivia, Mexico, with the Organisation of American States (OAS), as well as through its Sub-Commission on Latin America.

A growing number of countries in the region are interested in the Venice Commission's standard-setting documents and in its experience in such fields as constitutional assistance, constitutional justice and reform of the electoral legislation and practice. In 2018 experts of the Commission were invited to participate in different events in Bolivia, Mexico and other countries of the region. 2018 was marked by a fruitful co-operation with OAS on the issue of the individual right to re-election.

Scientific Council

The Scientific Council prepared and updated five thematic compilations of Venice Commission opinions and studies on:

- qualified majorities and anti-deadlock mechanisms,
- social and economic rights,
- digital technologies in the electoral process,
- prosecutors
- protection of national minorities.

These compilations, which contain extracts from the Commission's opinions and studies structured thematically around key topics, are intended to serve as a reference to country representatives, researchers as well as experts who wish to familiarise themselves with the

Venice Commission's approach in relation to the above-mentioned themes. They are available on the Commission's website and are regularly updated.

II. CONSTITUTIONAL REFORMS, STATE INSTITUTIONS, HUMAN RIGHTS AND THE JUDICIARY

1. COUNTRY SPECIFIC ACTIVITIES

1.1. Constitutional reforms, state institutions, check and balances

Albania

Vetting of politicians (CDL-AD(2018)034)

The opinion, requested by the Speaker of the Albanian parliament, concerns draft constitutional amendments enabling the vetting of politicians, initiated by the parliamentary opposition. In particular, these amendments proposed to prevent persons who “have contacts with persons involved in organised crime” from being candidates for Parliament or other elective positions, or from holding such positions.

The Venice Commission previously assisted Albania in the past in elaborating the framework for reforming and cleansing the judiciary. Vetting processes are on-going in respect of judges and prosecutors, and the police forces. In addition, persons convicted for specific criminal offences by a final decision are prevented, under the 2015 “Decriminalisation Law”, from accessing elected and appointed positions in public institutions and state administration.

The opinion concluded that despite its legitimate aim, the vetting proposal did not seem to provide added value, as it failed to provide both clear guidance and the safeguards needed for such a complex and sensitive process, with severe implications for the rights of the persons subject to it. Taking account of the Venice Commission’s opinion, the Albanian parliament rejected the proposal.

Georgia

Constitutional amendments as adopted at the second and third hearings in December 2017 (CDL-AD(2018)005)

At its March 2018 Session, the Venice Commission adopted, at the request of the Chairperson of the PACE Committee on the Honouring of Obligations and Commitments by Member States, an opinion on the draft constitutional amendments adopted by the Parliament of Georgia at the second reading on 15 December 2017. This is the third opinion adopted by the Venice Commission on the constitutional reform launched in 2017.

In the opinions adopted in June 2017 (opinion on the draft revised Constitution of Georgia)³ and October 2017 (opinion on the draft revised Constitution of Georgia as adopted in the second reading on 23 June 2017),⁴ the Venice Commission gave a positive assessment about the constitutional reform, but regretted the postponement of the entry into force of the proportional election system to October 2024. The draft revised Constitution, as adopted at the second reading on 23 June 2017, maintained the 5% threshold for elections as from 2024 and the prohibition of party blocks, but replaced the previously envisaged system of distribution of unallocated mandates by a complex new system, which maintained, but limited, the bonus for the winning party. On 13 October 2017, the Parliament of Georgia adopted the constitutional amendments.

The additional constitutional amendments, subject of this opinion, were initiated by the Parliament of Georgia with a view to reflecting the recommendations made by the Venice Commission in the previous opinions and were adopted at the second reading on 15 December 2017. According to the additional constitutional amendments, the postponement of the entry into

³ CDL-AD(2017)013

⁴ CDL-AD(2017)023

force of the proportional election system to 2024 is maintained. Electoral blocks will be allowed at the 2020 parliamentary elections, which will be carried out according to the mixed election system with an election threshold of 3%. For the 2024 (and subsequent) elections, the bonus system foreseen in the draft will be abolished and the unallocated mandates due to the votes for parties not having cleared the 5% threshold will be distributed according to the system of equal distribution. The prohibition on electoral blocks will be maintained during the 2024 and subsequent elections.

In its opinion adopted in March 2018, although the Commission reiterated that the postponement of the entry into force of the proportional election system to October 2024 was regrettable, the specific amendments concerning exclusively the 2020 elections and the possibility for political parties to form electoral coalitions and the reduction of the election threshold to 3% (exclusively for the 2020 elections) were factors which alleviate the detrimental effects of the postponement of the entry into force of the proportional election system and were therefore welcome. The new system of equal distribution of unallocated mandates, which will apply after the elections of 2024 to be held according to the full proportional system, was also welcomed.

The Venice Commission also welcomed a number of amendments in the field of fundamental rights, such as the amendments concerning the right to freedom of religion and in the field of constitutional justice, such as the repeal of the requirement of full consensus of the Plenum of the Constitutional Court when delivering judgment on the unconstitutionality of conducted elections. The Commission noted that a number of its previous recommendations concerning the appointment of Supreme Court judges, the requirement of a qualified majority in Parliament for the election of the Prosecutor General and the prohibition of the creation of political parties on territorial principle were not taken into account in the new Draft Revised Constitution.

Follow-up

On 24 March 2018, the Parliament adopted the last set of amendments at its third and final reading. The revised Constitution entered into force after the presidential elections which were held in October 2018.

Malta

Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement bodies of Malta (CDL-AD(2018)028)

The Opinion on the constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement bodies of Malta was the result of two requests, from the PACE Committee on Legal Affairs and Human Rights and from the Maltese Minister for Justice, Culture and Local Government. The scope of both requests was roughly similar, i.e. to look into the constitutional arrangements of the country, the separation of powers, judicial independence and the position of the law enforcement bodies.

The scope was very broad and it was almost impossible to provide a comprehensive and exhaustive analysis of the existing constitutional arrangements. Therefore, the opinion covered only the most relevant topics. The proposed constitutional reform required a holistic approach. In Malta, all interlocutors of the Commission's delegation had acknowledged the need for reform, notably as concerns the judiciary and the role of criminal prosecution. In its written response to the draft opinion, the Government had shown a willingness to accept the opinion as a basis for reform.

Even if the request from PACE was prompted by the assassination of an investigative journalist Daphne Galizia, the opinion did not look into this specific case or any other individual cases, but was limited to the constitutional arrangements as such.

As concerns the executive power, under the Maltese Constitution, it is the Prime Minister who is clearly the centre of political power. Other actors such as the President, Parliament, the Cabinet of Ministers, the Judiciary or the Ombudsman are too weak to provide sufficient checks and balances. The opinion therefore recommended strengthening these powers. Regarding Parliament, the opinion recommended tightening the rules on conflicts of interest, raising the salaries of 'part-time' MPs so that they would not depend on other remunerated positions attributed to them by the executive power and ensuring that MPs have sufficient access to non-partisan information to perform their controlling function. The President of Malta should be strengthened through powers of – notably judicial – appointments without the intervention of the Prime Minister. The opinion also recommended considering electing the President of Malta with a qualified majority.

As concerns the Judiciary, vacancies for judicial office are not announced or published. The Judicial Appointments Committee (JAC), established by constitutional amendment in 2016, vets candidates for judicial appointment and includes suitable candidates in a permanent register. When a vacancy arises, the Prime Minister is free to choose a candidate from that register or from among the sitting magistrates (first instance judges). The opinion recommended widening the composition of the JAC, publishing judicial vacancies and enabling the JAC to not only vet candidates but also to rank them upon merit. The opinion also recommended abolishing the possibility that judges are dismissed by Parliament.

As concerns prosecution, it is the Police that investigate crimes and then press the charges in court. The office of the Attorney General (AG) is involved in prosecution only for the most serious crimes, however the AG is also the Legal Adviser to the Government. The opinion recommended setting up an office of an independent Director of Public Prosecutions or Prosecutor General with security of tenure, being responsible for all public prosecutions, subject to judicial review. The AG would remain the Legal Adviser to the Government and the Police could focus exclusively on investigative work.

The opinion also covered the issue of the execution of the judgments of the Constitutional Court of Malta. The opinion recommended that the Constitution be amended to ensure that provisions found unconstitutional by the Court lose their force by virtue of the judgments of the Court, without the intervention of Parliament as was currently the practice.

Republic of Moldova

Draft law on amending and supplementing the Constitution of the Republic of Moldova (Judiciary) (CDL-AD(2018)003)

The opinion on the draft Law amending and supplementing the Constitution of the Republic of Moldova (Judiciary) was requested by the Ministry of Justice of the Republic of Moldova and adopted by the Venice Commission at its March 2018 plenary session.

It was prepared within the framework of the process implementing the national judicial action plan for EU association. The text examined was a constitutional amendment and therefore not as detailed as was required for implementing legislation.

The opinion focused on the composition of the Superior Council of Magistracy. The draft law removed the *ex officio* members, the Minister of Justice, the President of the Supreme Court and the Prosecutor General from the Council. There were no common standards on *ex officio* members and given that even the Minister of Justice had accepted his own removal from the Council, there were no objections against it. It was, however, important that dialogue between the Superior Council of the Magistracy and the other institutions be ensured by other means. The draft amendments did not specify the part of judges in the Superior Council of Magistracy and the method of appointment of representatives of civil society. The opinion recommended that these issues be clarified.

The removal of probationary periods for judges was welcomed, notably as there was no mechanism for automatic permanent appointments at the end of the probationary period in the absence of disciplinary problems. The opinion also welcomed that functional immunity of judges was introduced on the constitutional level.

Amendments to Article 42 of the Constitution (freedom of association) (CDL-AD(2018)007)

Currently Article 42 of the Moldovan Constitution guarantees the freedom of assembly, but not the freedom of association. The amendments were aimed at filling this gap, by aligning the constitutional text with Article 11 of the European Convention on Human Rights. In the opinion, requested by the Ministry of Justice, the Commission concluded that this amendment was welcome, but gave rise to certain problems. The relationship between the general limitation clause (listing situations where the basic rights and freedoms may be limited) and the specific limitation clause (listing situations where the freedom of association may be limited) was unclear. The Commission also recommended specifying that the amendment would not result in less protection for the trade unions. Article 41 (on political parties) had to be harmonised with new Article 42 and with the international standards on political parties.

Law on preventing and combatting terrorism (CDL-AD(2018)024)

The opinion on the 2017 law on preventing and combatting terrorism, requested by the Ministry of Justice, noted that no major controversy has been noted in the application of this law. However, the legal regime established by it and governing the activities of the Security and Information Service (the SIS) had the potential of affecting negatively human rights and enabling abuses of power.

The list of powers of the SIS had to be specified with more precision. Some of those powers - for example, the power to use resources, collect data and request information from private persons, or to issue “compulsory prescriptions” - should require an external authorisation (a court warrant, a decision by the prosecution, etc.). Also, the co-ordination of anti-terrorist activities should belong to the executive, rather than to the Speaker of Parliament. At the same time, the existing parliamentary control mechanism had to be reinforced, involving either the sub-commission on the SIS, or a mixed expert body, both with a strong presence of the opposition. Anti-terrorist operations should be of limited duration and cover a limited geographical zone. The security personnel should be liable for grossly disproportionate actions and for inadequate planning and conduct of the anti-terrorist operations. Finally, an effective review mechanism was recommended in relation to the practice of “blacklisting” of alleged terrorists.

Serbia

Draft amendments to the constitutional provisions on the judiciary ([CDL-AD\(2018\)011](#))

The request for an opinion on the draft amendments to the constitutional provisions on the judiciary was made by the Minister of Justice of Serbia in April 2018. The rapporteurs received a great amount of information before, during and after their visit to Serbia from associations, NGOs and from the Ministry of Justice of Serbia. The draft opinion was discussed at the Sub-commission on the Judiciary on 21 June 2018, where several modifications were made to the draft opinion and agreed upon. The main issues concerned: the separation of powers and the importance of including a clear rule in the Constitution of Serbia on checks and balances; the accountability of judges without affecting their independence; the composition of the High Judicial Council (HJC) and striving to find a best solution for an anti-deadlock mechanism and the importance of having *ex-officio* members in the HJC, as it facilitates dialogue among the various actors.

This opinion was important for Serbia in general and in particular for the process of its EU accession negotiations.

Follow-up

Following this opinion, the Ministry of Justice prepared a first revised version of the amendments in September and, following public discussions in Serbia and contacts with the Secretariat, submitted to the Commission on 12 October 2018 a second revised version of the amendments. The Secretariat prepared a memorandum, analysing in detail the compatibility of the draft amendments with the Commission's recommendations. The memorandum showed that the new version of the amendments complied not only with the main but also the other recommendations contained in the opinion. The text still had to be discussed and adopted by parliament.

Secretariat memorandum - Compatibility of the draft amendments to the Constitutional Provisions on the Judiciary of Serbia ([CDL-AD\(2018\)023](#))

The Secretariat of the Venice Commission issued a Secretariat Memorandum on 22 October 2018 on the compatibility of the draft Amendments to the Constitutional Provisions on the Judiciary as submitted by the Ministry of Justice of Serbia on 12 October 2018 with the Venice Commission's Opinion for on the draft Amendments to the Constitutional Provisions on the Judiciary. It concluded that the recommendations formulated by the Venice Commission in its opinion CDL-AD(2018)011 were followed.

The Commission took note of this Secretariat memorandum at its October 2018 Plenary Session.

1.2. Fundamental rights

Armenia

Freedom of religion (CDL-AD(2018)002)

The opinion requested by the Ministry of Justice and prepared jointly with the OSCE/ODIHR, analysed draft amendments to the law on freedom of conscience and on religious organisations. Freedoms and privileges guaranteed by the law should extend not only to religious organisations but also to "belief" organisations. Religious or belief groups should be able to exist and operate without registration, and the list of rights enjoyed by them should be open-ended. Registration requirements should be simplified, and some discriminatory registration conditions removed. In particular, it is not acceptable to deny registration to communities which are not based on a "historically canonised holy book". While the unique status of the Holy Apostolic Church is understandable in the Armenian context, other religious organisations should be able to accede to some of the privileges enjoyed by the Holy Apostolic Church, based on reasonable criteria. "State security" should not be a reason for restricting religious freedom, and only "improper proselytism" may be prohibited.

The Armenian authorities were invited to reconsider the blanket prohibition on foreign funding of religious organisations, to further specify the rules concerning the suspension of religious organisations, and to ensure that the dissolution of a religious organisation would only be a last resort measure.

Hungary

Provisions of the so-called “Stop Soros” draft legislative package which directly affect NGOs (in particular draft article 353A of the Criminal Code on facilitating illegal migration) (CDL-AD(2018)013)

At its June 2018 Plenary Session, the Venice Commission adopted, at the request of the Chairperson of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, a joint opinion on the compatibility with international human rights standards of the Hungarian “Stop Soros” legislative package. The request indicated that the draft legislative package should be analysed to the extent that it affects NGO activities. Therefore, the joint opinion concentrated especially on the draft amendment to the Criminal Code of Hungary, i.e. draft Article 353A of the Criminal Code. This draft provision criminalises anyone who engages in organising activities in order to facilitate the initiation of an asylum request in respect of a person, who in their native country or in the country of their habitual residence or in another country through which they have arrived, is not subject to persecution or whose allegations of direct persecution are not well-founded. Equally, the draft provision criminalises organisational activities to assist a person entering Hungary illegally or residing in Hungary illegally, to obtain a title of residence.

In their joint opinion, the Venice Commission and the OSCE/ODIHR considered that although the introduction of a criminal offence establishing criminal liability for intentionally assisting irregular migrants to circumvent immigration rules is not in and by itself contrary to international standards, draft Article 353A goes far beyond that by criminalising organisational activities which are not directly related to the materialisation of illegal migration. The joint opinion concluded that assistance by NGOs to asylum seekers in applying for asylum and lodging appeals cannot be regarded as circumvention of immigration rules. The proposed amendment therefore criminalises activities that are fully legitimate including activities which support the State in the fulfilment of its obligations under international law. Moreover, “financial gain” is not considered an element of the offence and the draft provision is not accompanied by a humanitarian exception clause.

The Draft legislative package, including draft Article 353A, was adopted by the Hungarian Parliament on 20 June 2018, i.e. before the Plenary Session of the Venice Commission took place. The Opinion recommended that the provision infringes upon the right to freedom of association and expression and be repealed.

Section 253 on the special immigration tax of Act XLI of 20 July 2018 amending certain tax laws and other related laws and on the immigration tax (CDL-AD(2018)035)

At its December 2018 Plenary Session, the Venice Commission adopted, at the request of the Chairperson of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, a Joint Opinion on Section 253 on the special immigration tax of Act XLI of 20 July 2018 amending certain tax laws and other related laws on the immigration tax.

Section 253 imposes a 25% tax on financial support to any immigration-supporting activity carried out by associations. The aim of the provision, according to its reasoning, is to oblige non-governmental organisations conducting activities in the field of migration, to bear the costs that have arisen as a result of their associative activities, which contribute to the growth of immigration and the growth of public tasks and expenditure. The Venice Commission and the OSCE/ODIHR considered that the special tax constitutes an interference with the right to freedom of expression of NGOs, since it limits their ability to undertake research, education and advocacy on issues of public debate. Moreover, as the tax is levied on the act of donating by NGOs expressing a particular opinion, Section 253 treats those NGOs performing immigration-supporting activities differently than others and creates the risk of stigmatisation of such organisations.

The Commission and the OSCE/ODIHR considered firstly that the vagueness of some terms used in Section 253 such as “activities that directly aim at promoting migration”, does not meet the requirement of legality. They further noted that certain characteristics of the special tax show that it is imposed not just to finance a government activity but to discourage a number of legitimate associative activities in the field of migration, which casts serious doubts on the legitimacy of the aim behind the provision. The necessity and proportionality of the imposition of special immigration tax is analysed taking due account of the cumulative effect created by the obligations imposed by the 2017 Law on the Transparency of Organisations receiving Support from Abroad and Article 353A of the Criminal Code on Facilitating Illegal Migration. The joint opinion concluded that the new reporting obligations imposed by Section 253 in addition to the already existing reporting obligations, creates an environment of excessive state monitoring, which is not conducive to the effective enjoyment of freedom of association. The joint opinion recommended that Section 253 on special immigration tax be repealed.

Malta

Equality and non-discrimination (CDL-AD(2018)014)

The opinion requested by the Ministry for European Affairs and Equality, analysed constitutional amendments introducing the Human Rights and Equality Commission (HREC), as well as related draft legislation. The HREC was supposed to receive broad powers in the field of protecting and promoting equality, including adjudicative powers. Furthermore, the notions of equality and non-discrimination were re-defined, in line with the European directives.

The comprehensive revision of the normative framework in this field deserved praise. However, the new mechanisms created tensions with the Constitution, the ECHR, and were not always internally coherent. The HREC was not sufficiently independent, and should include representatives of the civil society and of the opposition, and provide for a security of tenure for its members. The judicial functions of the proposed Human Rights and Equality Board, a body affiliated with the (HREC), overlapped with the competency of the civil courts, which was problematic under the Constitution and could lead to incoherent case-law. In addition, the Board was not sufficiently independent and did not provide for fair trial guarantees; so, either the Board should be stripped of its judicial functions, or its institutional design should be seriously reconsidered.

Finally, the Commission recommended, as a way to advance equality and promote diversity, to set out more precise specific positive duties for employers, educational institutions, providers of goods and services, and the public administration in the field.

North Macedonia

Prevention and protection against discrimination (CDL-AD(2018)001)

At the request of the Minister of Labour and Social Policy, the Venice Commission examined the draft law on prevention and protection against discrimination. The existing Law as well as its implementation had been the subject of criticisms for the lack of independence and impartiality of the Commission for Protection against Discrimination, the insufficiency of its financial and human resources, the non-inclusion of “sexual orientation” and “gender identity” in the list of grounds for discrimination and the large burden placed on the complainant to prove that discrimination has taken place.

In its Opinion the Commission praised the draft as a real improvement on the Law. Yet, further improvements were needed to ensure that it fully conforms to applicable standards. The Commission notably recommended additional safeguards for ensuring a real independence for the Commission for Protection against Discrimination, namely: to amend the provisions concerning the election and dismissal of its members, to provide for a unique mandate for its members, and to remove the possibility of filing a complaint to the State Administrative

Inspectorate (an administrative organ within the Ministry of Justice), in case the Commission fails to act within the legal deadline. It was also recommended to reconsider the early termination of the mandate of the Commission's members as a result of the entry into force of the draft law, which would be highly problematic for the independence of the Commission.

Romania

Draft law no. 140/2017 on amending governmental ordinance no. 26/2000 on associations and foundations (CDL-AD(2018)004)

At its March 2018 Plenary session, the Venice Commission adopted, at the request of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, a joint opinion on the compatibility of draft Law 140/2017, amending Governmental Ordinance No. 26/2000 on Associations and Foundations with international standards on human rights and fundamental freedoms.

The Venice Commission noted that the aim of the draft law was on the one hand to privilege, in the procedure for obtaining public utility status by associations, some areas of activities which have priority in the satisfaction of the most important needs of the Romanian society and on the other hand, to reduce suspicions regarding the legality of the financing of associations and foundations operating in Romania by imposing a number of reporting obligations on associations concerning the source of their funding.

The Venice Commission and the OSCE/ODIHR welcomed the endeavour of the draft law to be more specific in what is to be regarded as being in "the general or community interest" in deciding whether or not to grant an association the status of public utility. They noted however that the draft law was not sufficiently clear and precise to avoid arbitrary decisions in its implementation. Moreover, some important areas such as human rights and the fight against corruption were excluded in the draft law from the benefit of public utility status and the associations which obtained the public utility status were banned from conducting any "political activity". Consequently, the opinion recommended in particular that "democracy, human rights and rule of law" be added to the list of specific areas of general interest in the draft law and that the provision imposing a ban on political activities for associations with public utility status be limited to clear cases of support (for instance explicit fundraising) in favour or against a particular party or candidate.

Concerning the new financial reporting obligations which apply to all associations and foundations (regardless of whether or not they are recognised as public utility associations), the Opinion underlined that "public concerns" and "suspicions" about the legality of financing were not sufficient reasons to impose drastic reporting/disclosure obligations on associations concerning their sources of funding without concrete risk analysis pointing to the specific involvement of the civil society sector in the commission of crimes. In their current form the stringent reporting and disclosure requirements coupled with severe sanctions in case of non-compliance were likely to have a chilling effect on civil society. Therefore, the opinion recommended that the new reporting/disclosure obligations be repealed or at a minimum, the reporting obligations should either be limited to reporting to a regulatory body at reasonable intervals or the obligation to disclose the identity of the donors should be limited to the main sponsors.

The Commission was subsequently informed that most of the recommendations made in the opinion had already been taken into account in a revised text of the draft law.

1.3. Judiciary

Georgia

Provisions on the Prosecutorial Council in the draft Law of Georgia on the Prosecutor's Office and on the provisions on the High Council of Justice in the Law on General Courts (CDL-AD(2018)029)

An opinion on the provisions on the Prosecutorial Council in the draft Law of Georgia on the Prosecutor's Office and on the provisions on the High Council of Justice in the Law on General courts was requested by Sir Roger Gale, Chairperson of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe and adopted by the Venice Commission at its December 2018 plenary session. It focuses on the constitutional status of employees of the Prosecutor's Office, the subordination of the prosecutors, the disciplinary responsibility of the Prosecutor's Office's and the role of the Prosecutorial Council (PC). For the High Council of Justice (HCJ), the relevant provisions in the existing Law on General Courts were analysed.

The main recommendations for the PC in light of its new role under Article 65(3) of the Constitution include: that its composition be revised to include members from civil society; the Prosecutor's Office's external and internal independence should be ensured in relation to the legislative and executive powers; that the internal independence of the prosecutors should be ensured and to do so the PC should be attributed with the role of ensuring at least a minimum set of guarantees. To achieve a balance between the hierarchical control over and the independence of prosecutors, the PC's powers should be increased regarding the careers of prosecutors. The draft Law needs to also expressly indicate how the PC is to guarantee the transparency of the Prosecutor's Office. For the HCJ, the terminology for the grounds for terminating the powers of a member of the HCJ needs to be made clear and precise. Objective criteria should be established setting out what is deemed proper or improper fulfilment of duty.

Kazakhstan

High Judicial Council (CDL-AD(2018)032)

At the request of the High Judicial Council of Kazakhstan (the HJC), the Venice Commission evaluated a concept paper on the reform of this body. The concept paper proposed to redistribute some powers and functions related to the judicial careers from the Supreme Court and its bodies to the HJC. While this was a reasonable approach, it was important that the HJC itself become more independent from the President, which may require either an amendment to the Constitution, or at least some legislative amendments. In particular, the law had to define the exact number of the members of the HJC, introduce guarantees against their early removal, and provide for the nomination of members of the HJC by Parliament and by the general assembly of all judges. The President had to be, as a rule, bound by the proposal of the HJC as regards judicial appointments.

The opinion also commented on the process of the qualification exam for aspiring judges, which should not involve psychological testing by external experts and no "lie detector" test.

The severity of the qualification exam should not be a goal in its own, and a system of grading of all successful candidates was suggested. The law should define the relative weight of "objective" and "subjective" criteria for the selection of judges, and distinguish clearly between ethical breaches, disciplinary offences, and bad evaluations. A more comprehensive reform (going beyond the concept paper) could be envisaged for a longer perspective.

Administrative Procedure and Justice Code (CDL-AD(2018)020)

The opinion, requested by the Minister of Justice, analyses the new Code which regulates administrative procedures and administrative court proceedings together in one legal act. Taking into account that there are significant differences in the principles governing the

administrative procedure and the administrative court proceedings, the Venice Commission was of the view that a more appropriate solution would be to regulate them separately. The Commission also recommended, as a way of ensuring normative consistency, simplicity and transparency, to simplify the chapter on general principles by placing the procedural rules into respective articles of the Code. It further recommended reconsidering the prosecutors' role in the administrative procedures and process, so as to limit their intervention to exceptional cases clearly indicated in specific articles of the Code. It was also recommended to clarify the provisions on the suspension of an administrative act pending the adoption of an appropriate decision, and to review the provisions on administrative discretion in order to avoid misinterpretation in future application of the Code. The authorities of Kazakhstan expressed their readiness to pursue the co-operation with the Venice Commission, on this text in 2019, on the basis of the Commission's recommendations.

Montenegro

Anti-deadlock mechanisms in judicial election (CDL-AD(2018)015)

Following exchanges held by Venice Commission representatives with the authorities on the election of the lay members of the Judicial Council, draft amendments to the Law on the Judicial Council and Judges were prepared and submitted to the Venice Commission.

In its opinion the Commission stressed the need to provide for anti-deadlock mechanisms in respect of elections with a qualified majority of "safeguard institutions". In line with common practice in Europe, the Commission recommended providing that the sitting lay members of the Judicial Council would sit on the new Council pending the appointment of the new ones. These acting functions would not represent a new mandate. The procedure for the election of the lay members could be changed so as to remove the need to elect all four members simultaneously. The Parliament of Montenegro adopted the amendments, following the Commission's recommendations. Thanks to the anti-deadlock mechanism now contained in the law, the new Judicial Council started to function on 4 July 2018.

Morocco

International seminar on the management of the prosecution service (Rabat, 29 March 2018)

The Venice Commission participated in this seminar, organised by CEPEJ in the framework of the South Programme III, which brought together 140 participants, all prosecutors and attorneys general, to provide support to the presidency of the public prosecutor for the creation of an independent and efficient public prosecutor's office. It was the first seminar organised by the presidency of the public prosecutor, which is a new body (October 2017), to discuss the European practice regarding the management of the prosecution service.

North Macedonia

Legislation on courts and on the Judicial Council

The Commission examined the legislation on the judiciary on several occasions. In its 2015 opinion the Commission noted that legal regulations in this area were overly complicated, overlapping and obscure. An incremental revision of the legislation led to many improvements; the first step was taken in 2017, when the so-called Council for the Establishment of Facts was abolished, and its functions were transferred to the Judicial Council.

In 2018 the Commission examined amendments to the Law on Courts and the Law on the Judicial Council⁵. The overall assessment of the reform was positive. Instead of two parallel

⁵ Cf. opinion CDL-AD(2018)022

procedures both possibly leading to the dismissal of a judge, the legislation now provides for a single legal avenue. The new institutional arrangements and procedural rules were simpler, and better protect judicial independence.

However, the Law on the Judicial Council failed to specify who has the filtering function in the new system of disciplinary proceedings. It was not clear whether the Judicial Council was bound by the Inquiry Commission's proposal, and which decisions would require a qualified majority of votes. The Venice Commission commented on the scoring system for the performance evaluations. It also noted that the grounds for disciplinary liability contained in different provisions of the Law on Courts are largely overlapping, and that the fault of the judge and the gravity of the consequences is a *conditio sine qua non* for a sanction. Finally, the Commission stressed that the finding of a violation by the ECtHR engaged the international liability of the State, but should never lead automatically to the dismissal of the judge involved in the domestic proceedings.

Later in 2018 the Ministry of Justice reviewed the Law on Courts, largely in line with the Commission's recommendations. The Venice Commission adopted a follow-up opinion (CDL-AD(2018)033), in which it made certain mostly technical suggestions to the revised text.

Poland

Follow-up to the Opinion on the draft act amending the Act on the National Council of the Judiciary; on the draft act amending the Act on the Supreme Court, proposed by the President of Poland, and on the Act on the Organisation of Ordinary Courts (CDL-AD(2017)031)

In its opinion of December 2017 the Commission concluded that the reform of the Polish judiciary posed a grave threat to judicial independence. In 2018 the legislative amendments were put into practice; this gave rise to a major controversy between the European Commission and the Polish Government and resulted in at least two sets of proceedings before the European Court of Justice (the ECJ). The first concerned an extradition request for a suspected criminal from Ireland to Poland, due to concerns about the integrity of the Polish justice system. The ECJ held that the extradition may be postponed if the Irish court finds that the person being extradited was exposed to a risk of a flagrant denial of justice. In November, the Irish court decided that despite serious doubts about the independence of the Polish judiciary, the applicant's specific situation was not such as to conclude that he would not receive a fair trial back home.

The second case was referred to the ECJ by the European Commission on 2 October 2018. It concerned one of the major aspects of the reform, namely the retroactive lowering of the retirement age for judges of the Supreme Court. Many Supreme Court judges, including the First President, had refused to leave, considering this change unconstitutional. The European Commission believed that this measure also infringed EU law. While the proceedings were pending the Commission requested an interim measure, and on 19 October the Vice-President of the ECJ ordered the suspension of early retirement of judges and the appointment of the new judges to the SC. At the end of November, the Polish Government introduced draft legislation which would reinstate the Supreme Court judges (including the First President) who were supposed to leave under the new rules. This is positive, but other issues, noted in the 2017 opinion, remain unresolved.

Romania

Judicial laws; Criminal Code and Criminal Procedure Code

At the request of the President of Romania and the Monitoring Committee of the Parliamentary Assembly the Venice Commission prepared an opinion (CDL-AD(2018)017) in respect of three drafts amending to a large extent the laws on the status of judges and prosecutors, on the judicial organisation and on the Superior Council of Magistracy. Criticised for being excessively

fast and lacking inclusiveness and transparency, the legislative process had proved to be very divisive for the Romanian society.

While acknowledging some proposed positive changes, the opinion highlighted important new features which seen alone, but especially taking into account their cumulative effect, in the complex political context prevailing in Romania, were likely to undermine the independence of Romanian judges and prosecutors, the public confidence in the judiciary, as well as the country's fight against corruption. These included in particular: a new system for the appointment and dismissal of Chief prosecutors and the role of the Ministry of Justice therein, the limitation of freedom of expression of magistrates, the new provisions dealing with magistrates' liability and the new Section for investigating offences of magistrates, as well as the arrangements weakening the role of the Superior Council of Magistracy, as the guarantor of the independence of the judiciary.

Following their entry into force, the three judicial laws were modified through a government emergency ordinance, subsequently confirmed by the Parliament. One amendment, the postponement (by one year) of the entry into force of the new early retirement scheme, addressed an issue raised in the Venice Commission's opinion. On the other hand, following a further emergency ordinance, the new Section for investigating offences committed by magistrates, criticised in the preliminary opinion, became operational.

The Commission also adopted, at the request of the Monitoring Committee of the Parliamentary Assembly, an opinion (CDL-AD(2018)021) on recent amendments to the criminal code and the criminal procedure code. Officially, the amendments were mainly intended to bring the Romanian legislation in line with a number of decisions of the Constitutional Court and EU Directives.

The opinion however noted that some amendments go far beyond the requirements resulting from the case law of the Constitutional Court or the country's international obligations. Some amendments (such as those related to abuse of office) would seriously impair the effectiveness of the efforts to eradicate corruption in Romania, and their potential impact appeared to be even wider. They could significantly impact the criminal justice system and its effective and efficient operation as such. The Romanian authorities were invited to conduct an overall re-assessment of the amendments, in order to come up with a coherent legislative proposal, benefiting from broad support in society and taking fully into account the applicable standards. A number of more specific recommendations were made in relation to some proposed amendments to the two Codes. An important number of amendments to the two Codes, among them many provisions criticized by the Venice Commission, were invalidated by the Constitutional Court and will have to be re-examined by the Romanian Parliament.

The Committee of Ministers of the Council of Europe, as well as the European Parliament and the European Commission, called upon the Romanian authorities, with reference to the Venice Commission's recommendations, to re-consider the recent amendments adopted in the sphere of the judiciary.

2. TRANSNATIONAL ACTIVITIES

2.1. Reports and studies

Freedom of assembly

In 2018 the Venice Commission continued the process of the preparation of a 3rd version of its joint Guidelines on Freedom of Peaceful Assembly, revised and updated in the light of the most recent developments in the field. The draft guidelines will be finalised and submitted to the Commission for adoption in the first part of 2019.

Ombudsman Institutions

In June 2017, the Commission decided to codify, on the basis of its previous work, a set of constitutional and legal principles (so-called "Venice Principles") specifically devoted to the Ombudsman institution. A broad process of consultation and exchanges on the "Venice Principles" with Ombudsman Institutions from all over the world as well as with the international stakeholders took place in 2018. The draft text is due for adoption by the Venice Commission in 2019.

Funding of associations

During 2018 the Commission continued preparing, in the light of the most recent developments in this field, a study on the funding of associations. The draft study will be submitted to the plenary for adoption during its March 2019 Plenary Session.

Recall of mayors and other local representatives

Following Congress Resolution 420 and the request from the Secretary General of the Congress of 7 November 2017, in 2018 the Commission started the preparation of the study on the compatibility of local recall referendum aimed at cutting short the term of office of a local elected representative with the international standards and best practice ("Recall of mayors"). The draft study is due for adoption by the Venice Commission in 2019.

Interrelation majority - opposition

In 2018, the Venice Commission pursued its reflection on the interrelation between the opposition and the majority in a democratic parliament. A check-list including questions and examples of best practices in this field will be finalised and submitted to Commission for adoption in the first part of 2019.

2.2. Compilations of Venice Commission opinions and reports

The Commission endorsed two⁶ new compilations prepared by the Scientific Council. One concerned qualified majorities and anti-deadlock mechanisms (CDL-PI(2018)003). It describes mechanisms which may help to overcome a stalemate in Parliament where the requirement to obtain a qualified majority of votes for a decision (usually the decision to appoint an office-holder) cannot be fulfilled due to political cleavages.

Another compilation (CDL-PI(2018)005) concerned social and economic rights. These rights enjoy a somewhat weaker protection in the national constitutions, and yet their constitutional status shows that they are more than mere declarations of good will.

The Scientific Council also updated the thematic compilations of Venice Commission opinions and studies on prosecutors and on the protection of national minorities.

⁶ For the information on the third new compilation, endorsed in 2018, please refer to the Chapter IV.

III. CONSTITUTIONAL JUSTICE⁷

1. OPINIONS, REPORTS AND CONFERENCES / MEETINGS⁸ / AVIS, RAPPORTS ET CONFERENCES / REUNIONS

Report on separate opinions (CDL-AD(2018)030)

The Report on Separate Opinions was adopted by the Venice Commission at its December 2018 plenary session. It is divided into three main parts: an overview of the advantages and disadvantages of separate opinions, the rules governing these opinions and a conclusion with recommendations. It explains that arguments against separate opinions claim that they endanger the unity of the court and undermine its authority whereas arguments in support of them claim that they democratise the judiciary, making it more transparent and thereby strengthening its authority and credibility.

The choice of whether or not to introduce separate opinions remains with the states. However, for those which have them, the report's main recommendations should be considered. These include that the law should treat separate opinions as a right and not a duty of judges; that these opinions should remain loyal to the court and its institutional role in order to ensure the legitimacy of judicial decision-making; that a separate opinion should be considered as an *ultima ratio* solution; that the majority must be able to respond to a written separate opinion to ensure the quality of judgments and the collegiality within the court; that the judges' code of conduct/ethics should deal with separate opinions setting out which lines should not be crossed; that a disrespectful separate opinion breaching the code of conduct/ethics must be published regardless of whether or not a procedure has been launched against the dissenting or concurring judge and that a separate opinion forms a part of the judgment and should therefore be published in every case together with the majority judgment and *ex officio*, not only upon request by the judges, who formulate these opinions.

Andorra

Conference on "Constitutional Courts guarantors of the democratic quality of societies?" (Andorra la Vella, 12-14 July 2018)

The event organised on the occasion of the 25th anniversary of the Constitutional Court of Andorra gathered together 38 constitutional courts from Europe, Africa and Asia to discuss guarantees for the separation of powers, fundamental rights, the protection of courts – a democratic necessity, the protection of the independence of constitutional judges and the protection of the constitutional decision-making process.

The aim of the Venice Commission's participation was to raise constitutional courts' awareness to the Venice Commission's role in promoting and defending constitutional justice.

Armenia

International Conference on "The new millennium constitutionalism" (Yerevan, 1-2 November 2018)

The theme of this Conference was "*The new millennium constitutionalism*" and the event was organised by the "Constitutional Culture" International Analytical Center of the Constitutional Court of Armenia.

⁷ The full text of all adopted opinions can be found on the web site www.venice.coe.int.

⁸ Information on activities in the field of constitutional justice and ordinary justice concerning Peru can be found in Chapter V.

The President of the Venice Commission and the Secretary of the Venice Commission participated in this event.

The goal of the Conference was to identify the challenges in ensuring constitutionalism in the 21st century and to discuss the mechanisms of ensuring constitutionalism. Topics discussed included the current challenges to justice and the constitution, in particular, effective justice monitoring, judicial power in crisis situations, further strengthening of democracy through the rule of law, etc. Participants included the Chairman of the Constitutional Court of Mongolia, the Vice-President of the Constitutional Court of Bosnia and Herzegovina, judges of constitutional and supreme courts, representative of the OSCE/ODIHR, judges of different international tribunals of the UN, lawyers and other high-ranking foreign officials.

Follow-up to the Opinion on the draft constitutional law on the Constitutional Court ([CDL-AD\(2017\)011](#))

The need to adopt a new law on the Constitutional Court of Armenia came as a result of the adoption of the new Constitution. In its opinion, adopted in June 2018, the Venice Commission welcomed the draft Law as a positive step in ensuring the Constitutional Court of Armenia's role as an effective guardian of the Constitution, while making a number of recommendations to further improve the text. On 27 January 2018, the Armenian President enacted the constitutional Law on the Constitutional Court.

As recommended by the opinion, the adopted Law limits the immunity of judges of the Constitutional Court to acts committed in the exercise of their functions and reduces the powers of the President of the Constitutional Court by removing his competence to adopt the rules of procedure of the Court. The adopted Law also provides, as recommended, that the decisions of the Constitutional Court enter into force when published on the web-site of the Court.

The opinion recommended setting out the procedure for the appointment of the judges of the Constitutional Court in a clear manner, at least by reference to the relevant provisions of the Rules of Procedure of Parliament. While the draft Law made a general reference to the Rules of Procedure of Parliament, the adopted Law refers to the Constitution and legislation in general.

On a positive note, the adopted Law establishes that the Court's President must inform the other state bodies about an upcoming vacancy six months before the end of the mandate of the judge concerned.

Azerbaijan

International Conference on “The state governed by the rule of law and the constitutional justice: values and priorities” (Baku, 6 July 2018)

The President of the Venice Commission participated in the International Conference on “The state governed by the rule of law and constitutional justice: values and priorities” devoted to the 20th anniversary of the Constitutional Court of the Republic of Azerbaijan.

In his opening speech, the President of the Venice Commission underlined the importance of political dialogue and commitment to engaging in open discourse in a democracy and insisted on the crucial role of constitutional courts in the effective implementation of human rights standards, notably, in the fields of freedom of expression and association. He also emphasised the importance of the principle of “accountability” in guaranteeing the rule of law and insisted on the need to address the corruption problem.

The activity was carried out within the framework of the Partnership for Good Governance (PGG) funded by the European Union and the Council of Europe and implemented by the Council of Europe.

Bolivia

Conference on “Constitutional justice and the principle of proportionality” (Sucre, 7 December 2018)

On 7 December 2018, the Plurinational Constitutional Court of Bolivia and the Venice Commission organised a conference on “Constitutional Justice and the principle of proportionality” at the seat of the Court in Sucre.

The conference gathered together around 200 participants and was streamed live via the Internet, including at seven Bolivian universities. Local and remote participants were able to ask questions to the speakers. The Venice Commission invited international experts from Costa Rica, Germany, Peru and a former Judge of the European Court of Human Rights (Spain), as speakers.

The discussions developed along the idea that the principle of proportionality, which had developed in Germany and spread world-wide via the European Court of Human Rights, is a legal technique that allows to control whether or not human rights restrictions are "necessary in a democratic society". Human rights – with a few exceptions – are not absolute and can be limited, not least because they may be in conflict with other human rights.

The participants discussed how judges can use the principle of proportionality as a vehicle to achieve equilibrium in balancing the nature and extent of the interference against the reason for the interference.

This event was funded by a voluntary contribution of the Government of Mexico.

Czech Republic

XVIIIth Congress of the Conference of European Constitutional Courts (CECC) (Prague, 13-14 June 2018)

While the Venice Commission regularly participates in the meetings of the Circle of Presidents of the CECC, the Czech Presidency requested, for the first time, that the Commission present a report to the CECC on its work in support of the constitutional courts in its member states. The Commission presented this report covering opinions, *amicus curiae* briefs and declarations made since 2016.

The Plenum of the Circle of Presidents had asked the Venice Commission to prepare a special issue of the Bulletin on Constitutional Case-Law as a working document for the XVIIIth Congress (see below).

Egypt

10th Symposium of the Union of Arab Constitutional Courts and Councils (UACCC) (Cairo, 23 April 2018)

The President of the Venice Commission participated in the UACCC's 10th Symposium, which gathered together the 15 members of the UACCC to discuss the experiences of the Arab constitutional judiciary on the right of equality and religious and cultural freedoms (see under co-operation with the UACCC below).

During this event, the President of the Commission invited UACCC Member Courts to contribute to the CODICES database and the Venice Forum by virtue of the co-operation agreement with the UACCC. He also invited the members of the UACCC not having yet done so to join the World Conference on Constitutional Justice and confirmed that the Bureau of the World conference had accepted the proposal of the Algerian Council for the topic of the 5th Congress in 2020: “Peace and Constitutional Justice”.

The discussions were frank and related, *inter alia*, to the question to which extent Sharia is (the sole) source of law; the limits of religious freedoms; constitutional limits to the control of death penalty; the rights of 'non-heavenly' religions (other than Muslims, Jews and Christians); freedom to build places of worship for religions other than Muslim; equality in privileges for pilgrimage or linguistic diversity.

Angola

Visit by the Constitutional Court of Angola (Strasbourg, 29 May 2019)

A delegation from the Constitutional Court of Angola, headed by its President, visited the Council of Europe and had meetings with Ms Simona Granata-Menghini, Deputy Secretary of the Venice Commission and with Mr Schnutz Dürr, Secretary General of the World Conference on Constitutional Justice. The delegation also met with Mr Guido Raimondi, President of the European Court on Human Rights and with Mr Paul Rübig, Member of the European Parliament.

Georgia

Constitutional amendments as adopted at the second and third hearings in December 2017 (CDL-AD(2018)005)

In its opinion adopted in March 2018, the Venice Commission welcomed, *inter alia*, a number of amendments in the field of fundamental rights, such as the amendments concerning the right to freedom of religion and in the field of constitutional justice, such as the repeal of the requirement of full consensus of the Plenum of the Constitutional Court when delivering judgment on the unconstitutionality of conducted elections. The Commission noted that a number of its previous recommendations concerning the appointment of Supreme Court judges, the requirement of a qualified majority in Parliament for the election of the Prosecutor General and prohibition of the creation of political parties on territorial principle were not taken into account in the new Draft Revised Constitution. For a more complete presentation of this opinion, see chapter II.

3rd Congress of the Association of Constitutional Justice of the Countries of the Baltic and Black Sea Regions (BBCJ), "Role of the Constitutional Courts in European integration process" (Tbilisi, 16-17 May 2018)

The Congress gathered together around 80 participants, including five BBCJ member courts (Georgia, Republic of Moldova, Lithuania, Poland and Ukraine) and judges from the constitutional courts of Latvia and Turkey, academics, students and representatives of the civil and international community of Georgia, the Council of Europe, the EU and diplomats.

Discussions focused on the sharing of experience in the EU integration process by the Lithuanian and Polish constitutional courts and that case law of countries not yet members of the EU already referred to the case law of the Court of Justice of the EU.

This activity was carried out within the framework of the Partnership for Good Governance (PGG) for Armenia, Azerbaijan, Georgia, the Republic of Moldova, Ukraine and Belarus, funded by the EU and the Council of Europe and implemented by the Council of Europe.

Amicus curiae brief for the Constitutional Court of Georgia on the effects of Constitutional Court decisions on final judgments in civil and administrative cases ([CDL-AD\(2018\)012](#))

This *amicus curiae* brief was requested by the President of the Constitutional Court of Georgia, Mr Zaza Tavadze, on the effects of the decisions of constitutional courts in civil and administrative cases and adopted by the Venice Commission at its June 2018 plenary session. The brief replied to the questions raised by the President of the Constitutional Court with an

analysis of comparative law. The brief found that there was a variety of systems, ranging from moderate *ex tunc* systems to strict *ex nunc* systems, sometimes with a specific rule for the instant case. No model was particularly dominant.

The Georgian legislation established an *ex nunc* system, but the legislation did not provide for a direct answer to all the aspects of the effects of decisions of the Constitutional Court on final judgments of the ordinary courts that were based on legal provisions that were found unconstitutional. It did not fall short of European standards that the Civil Procedure Code of Georgia did not include decisions of the Constitutional Court as explicit grounds to reopen final court decisions. In interpreting the applicable provisions, it would be up to the Constitutional Court to find a balance between the principles of individual remedy and legal security.

Jordan

1st Bilateral Steering Committee Meeting with the Hashemite Kingdom of Jordan (Amman, 5 May 2018)

This event dealt with several important areas: justice reform / Constitutional justice; prevention of corruption, money laundering and terrorism and more generally, the partnership networks between the Council of Europe and Jordan.

The Venice Commission intervened under the topic of justice reform and constitutional justice, underlining that Jordan and the Venice Commission have been actively co-operating since 2012, notably in the areas of constitutional justice and on electoral matters. The overall objective remains to strengthen the Constitutional Court and the Independent Electoral Commission and to further develop co-operation with the Venice Commission in other areas, notably the Ombudsman institution.

This event was funded by the Council of Europe and the European Union under the Joint South Programme III entitled “*Ensuring Sustainable Democratic Governance and Human Rights in the Southern Mediterranean*” South Programme III (2018-2020).

Seminar on “Legal stability and the case for reversing precedent” (Amman, 4 December 2018)

Around 20 people attended this event, including judges and staff and the President of the Constitutional Court of Jordan. Discussions focused on the role of precedent and when it can and should be reversed and to provide the judges of the Constitutional Court of Jordan with the opportunity to ask international experts questions regarding the practice in their courts and international practice in general on this issue.

The Jordanian Constitutional Court judges actively participated in the Q&A sessions and were very interested about how different legal systems treated precedent. Many questions also ventured outside the scope of the conference’s subject, but remained within the field of constitutional law. For instance, constitutionally protected rights and the hierarchy between national constitutions and international treaties; the effect on a law that has been declared unconstitutional by the constitutional court.

This event was organised by the Constitutional Court of Jordan together with the Venice Commission and funded by the Council of Europe and the European Union under the Joint South Programme III (2018-2020) entitled “*Ensuring Sustainable Democratic Governance and Human Rights in the Southern Mediterranean*”.

Kazakhstan

International Conference “A constitution: the embodiment of the values of the rule of law, civil society and the modern state”, dedicated to the Day of the Constitution of the Republic of Kazakhstan and meeting of the Conference of Constitutional Control Organs of the Countries of New Democracy (CCCOCND) (Astana, 28 August 2018).

The event gathered together 42 constitutional courts and courts with equivalent jurisdiction. The aim of the Venice Commission's participation in this event was to maintain contact with the new Kazakh presidency of the CCCOCND (see III.5 below) and to promote freedom of association.

At the meeting of the CCCOCND, the Constitutional Court of Azerbaijan was admitted as a new member. The Kazakh presidency presented the new web-site and promised to continue publishing the Conference's journal. The question of whether the CCCOCND should adopt a formal statute was discussed. The participants were informed about the topic of and progress in the preparation of the 5th Congress of the WCCJ and were invited to contribute to the CODICES database.

Korea

1st Research Conference of the Association of Asian Constitutional Courts and Equivalent Institutions Secretariat for Research and Development (AACC SRD) on the topic “Jurisdictions and organisation of AACC members” (Seoul, 29 May – 1st June 2018)

This event was hosted by the Constitutional Court of Korea and the AACC Secretariat for Research and Development.

The event gathered together representatives of constitutional courts from 13 member courts of the AACC and guests from the European Court of Human Rights. The aim of this event was to gather information regarding the jurisdiction of the member courts of the AACC and their internal organisation and functioning. Discussions revolved around access to constitutional justice and the types of complaints that exist in the courts of different countries in that respect. The proceedings of this event were published.

The aim of the Venice Commission's participation in this event was to maintain relations with the AACC, request contributions to CODICES from Asian courts and encourage their active use of this database as well as to invite AACC members to join the World Conference on Constitutional Justice (WCCJ).

International Conference in commemoration of the 30th anniversary of the Constitutional Court of Korea (Seoul, 2-5 September 2018)

This event gathered together around 100 participants from 33 constitutional courts or courts with equivalent jurisdiction to discuss the past and present status of constitutional justice and parliament, elections and constitutional justice as well as protecting human rights through constitutional justice and how to cope with the challenges of the 21st century.

Kosovo

Opening of the 9th Judicial Year of the Constitutional Court of Republic of Kosovo (Pristina, 25 October 2018)

The President of the Venice Commission took part in the opening of the 9th Judicial Year of the Constitutional Court of Kosovo. In his presentation, he referred to the co-operation between the Venice Commission and Kosovo, notably since in 2014, when it became a member of the Venice Commission and encouraged the authorities to make requests for an opinion/*amicus curiae* brief to the Venice Commission.

Latvia

International Conference “The role of constitutional courts in the globalised world of the 21st century” dedicated to the 100th anniversary of the State of Latvia (Riga, 24-25 May 2018)

This event gathered together representatives of constitutional jurisdictions from 25 countries, *inter alia*, from Italy, France, Germany, and Spain. Scholars and legal experts, guests from the European Court of Human Rights and the Court of Justice of the European Union, as well as officials representing Latvian institutions and the Council of Europe.

Discussions revolved around how globalisation has influenced the functioning of constitutional courts and courts with equivalent jurisdiction and their case law as well as possible improvements in these courts' work, in view of the significant and constantly growing supra-national influence of these institutions.

Malta

Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement bodies of Malta ([CDL-AD\(2018\)028](#))

The opinion on the constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement bodies of Malta covered, *inter alia*, the issue of the execution of the judgments of the Constitutional Court of Malta. The opinion recommended that the Constitution be amended to ensure that provisions found unconstitutional by the Court lose their force by virtue of the judgments of the Court, without the intervention of Parliament as was currently the practice.

For a more complete presentation of this opinion see chapter II above.

Panama

XIIth Ibero-American Conference on Constitutional Justice (CIJC) on the relationship between constitutional and ordinary jurisdiction (Panama, 16-18 May 2018)

The Venice Commission's aim in taking part in this event was to maintain relations with the Ibero-American Courts; invite them to join the World Conference on Constitutional Justice (WCCJ) and to contribute actively to the CODICES database and the Venice Forum.

Discussions at this event focused on the rights of vulnerable persons and the difficulties related to their access to courts.

Suggestions were made that individuals should have the fundamental right to know algorithms which determine decisions relating to them. The individuals should then benefit from an algorithm ombudsman who would be able to understand the technical elements of the description of the algorithm and who could intervene on their behalf.

Bilateral discussions focused on training sessions for contributions to the CODICES database.

Russian Federation

Final session of the VII Annual Crystal Themis Moot Court Competition (Moscow, 31 January – 2 February 2018)

The Institute for Law and Public Policy, under the auspices of the Association of Lawyers of Russia and with the support of the Venice Commission, completed the Seventh All-Russian

Moot Court Competition for the Russian law school students' teams called "Crystal Goddess of Justice (Crystal Themis)". The case brought before the court this year was entitled "Exploring the Arctic, or the Case of Nickel Ore". 16 teams took part in the moot court competition. The runners-up were the three teams that had won the quarter-final rounds and competed in the semi-finals: Immanuel Kant Baltic Federal University, Lomonosov Moscow State University, and the Russian State University of Justice. The students from the Ural State Law University won the main Crystal Themis prize.

International Conference on "Constitution in the global change epoch and the goals of constitutional review" (St. Petersburg, 15 May 2018)

In celebration of the 25th anniversary of the adoption of the Constitution of the Russian Federation, the Russian Constitutional Court organised an international conference on "Constitution in the global change epoch and the goals of constitutional review".

The Secretary of the Venice Commission spoke about how far constitutional review has spread and whether this happened by accident or whether there is a link between globalisation and constitutional review.

Slovakia

International Conference on "Constitutional justice – challenges and perspective" on the occasion of the 25th anniversary of the Constitutional Court (Košice, 11 April 2018)

Delegations from constitutional courts and courts with equivalent jurisdiction from over 20 countries attended this event.

Discussions revolved around the constitutional and legal positions of different constitutional courts, the role of the case law of the European Court of Human Rights in interpreting constitutional provisions and the re-opening of proceedings after a judgment by this Court as well as the role of EU law and the Charter of Fundamental Rights.

Follow-up to the Opinion on questions relating to the appointment of judges of the Constitutional Court of the Slovak Republic ([CDL-AD\(2017\)001](#))

At the December 2017 session, the Venice Commission was informed that, following the Opinion, the First Senate of the Constitutional Court had decided that by not appointing candidates elected by Parliament to the Constitutional Court, the President of Slovakia had violated the fundamental right of access to elected office of the rejected applicants.

The President of Slovakia subsequently appointed three judges to the Constitutional Court and the Court is once again complete. In January 2018, the President of the Venice Commission wrote a letter to the Speaker of the National Assembly and the Prime Minister expressing his satisfaction that the vacancies had been filled. In his letter, the President also offered the assistance of the Venice Commission to support legislative and constitutional reforms in the light of the opinion. The opinion had not only recommended that the President follow the judgment of the Constitutional Court, but also proposed constitutional and legislative changes to avoid similar situations from occurring in the future.

Turkey

Symposium on the occasion of the 56th anniversary of the Constitutional Court of Turkey (Ankara, 25-26 April 2018)

In his speech, the President of the Venice Commission deplored the cases of non-execution of judgments of Constitutional Courts. He also insisted that it was the role of the Constitutional Court to uphold human rights even in difficult situations.

Discussions also revolved around the issue of the execution of the Constitutional Court's judgments and the unfortunate trend of their non-implementation.

Around 20 constitutional courts and courts with equivalent jurisdiction attended this event.

First International Conference of the Constitutional/Supreme Courts of the OIC Member Countries on the "Role of the higher judiciary in protecting the rule of law and fundamental rights" (Istanbul, 14-16 December 2018)

Professor Osman Can, former member of the Venice Commission, represented the Venice Commission at this event.

At this event, the idea of establishing a forum for Constitutional/Equivalent institutions consisting of the OIC member states was discussed and concluded in an Istanbul Declaration signed on 15 December 2018, which sets out that conferences will be held regularly to discuss constitutionalism and human rights; that a working committee of experts will be established to deal with this forum and that conferences should be organised every two years.

Ukraine

International Conference "The Individual constitutional complaint to the Constitutional Court of Ukraine" (Kyiv, 10 September 2018)

The presentations by the experts made a clear distinction between the full constitutional complaint (e.g. Germany) and the normative constitutional complaint (such as in Poland). An important part of the discussion was devoted to Article 89.3 of the Law on the Constitutional Court of Ukraine, which allows this Court to go further than the pure normative complaint by referring a case back to the Supreme Court when the Constitutional Court comes to the conclusion that the challenged law is constitutional, but that its application by the courts was unconstitutional. It is still unclear to what extent the Constitutional Court will use the full scope of this provision, which was discussed also in the Venice Commission's opinion (CDL-AD(2016)034). Depending on its interpretation of Article 89.3, the Constitutional Court could turn the constitutional complaint into a "quasi full constitutional complaint".

At this event, the Venice Commission announced that it would provide, as result of a tender, Professor M. Granat, former judge of the Constitutional Court of Poland, as a long-term advisor for the Constitutional Court of Ukraine within the framework of the Ukraine Action Plan.

This event was organised within the framework of the Ukraine Action Plan.

2. JOINT COUNCIL ON CONSTITUTIONAL JUSTICE (JCCJ)

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 Venice Commission within the framework of the Joint Council on Constitutional Justice (JCCJ).

The 17th meeting of the JCCJ was hosted by the Federal Court of Switzerland in Lausanne on 27-28 June 2018.

In this meeting, the JCCJ:

- elected Ms Mirjana Stresec, liaison officer for the Constitutional Court of Croatia, as Co-President *for the liaison officers*;
- was informed about the follow up to the letter signed by the Co-Presidents of the JCCJ sent to the Turkish authorities regarding one of the former liaison officers of the JCCJ from the Constitutional Court of Turkey, Justice Bekir Sözen, who had been detained on 16 July 2016, following the failed *coup d'état* in

Turkey. Justice Bekir Sözen had been released in May 2018, after nearly two years in solitary confinement, but his trial was to continue;

- held exchanges of views with representatives of the regional and linguistic groups co-operating with the Venice Commission and was informed about this co-operation;
- invited the liaison officers to contribute to the Venice Forum;
- was informed about the Constitutional Justice Observatory;
- was informed about activities of and opinions adopted by the Venice Commission in the field of constitutional justice;
- was informed about the participation in and co-organisation of conferences and seminars in co-operation with Constitutional Courts and equivalent bodies (CoCoSems);
- the liaison officers agreed that there will no longer be a paper version of the *Bulletin on Constitutional Case-Law*; that a list of *précis* with indexing, which provides links to the full *précis* (with headnotes and summary) in CODICES, will be sent by e-mail three times a year; that a new system of subscription to alerts of new *précis*, indicating the liaison officer's interests in topics of the Systematic Thesaurus and/or countries will be elaborated; that the JCCJ will continue the practice of choosing its own topic for its mini-conference and that one Special Bulletin will be published every three years for the CECC;
- was informed that the 19th meeting will be hosted by the Constitutional Court of Croatia in Zagreb in 2020.

The 17th meeting of the JCCJ was followed by a mini-conference on the topic "*Gender, equality and discrimination*". The presentations and subsequent discussions raised awareness on many issues pertaining to gender, equality and discrimination. Discussions were held on various of the main topic:

- on wage discrimination between genders;
- that within the ECHR system, states have a margin of appreciation when it comes to discrimination (except for core rights), for instance military service discriminates between men and women as it is an obligation for men and often not for women; women are allowed to retire earlier than men etc.
- that although paternity leave exists, it is often very difficult for men to invoke it without being discriminated against, revealing that both men and women were discriminated against when they start a family;
- that there is an emerging trend in protecting the rights of homosexual couples that includes the recognition of same-sex partnerships and marriage in some countries, the right to adopt, tenancy and pension rights, even solitary confinement in prison to avoid harassment and violence;
- that domestic violence has been recognised as gender bias by the ECtHR;
- that women should also be allowed to transmit their last names to their children;
- that sexual intimidation and harassment on the street was being tackled by some countries through the introduction of laws making it an offence under their criminal code;
- that in some countries, a person as young as 16 can request the registry to change the description of their gender (self-declaration), whereas in others more restrictions and safeguards are imposed for this not to be misused (time and stability of the decision).

Participants agreed that education and awareness was key in furthering the rights of those who are still stigmatised today.

All the presentations made during this mini-conference were published on the site of the Venice Commission and as a brochure, which is available at: www.codices.coe.int in the "Reports" section.

3. E-BULLETIN ON CONSTITUTIONAL CASE-LAW AND THE CODICES DATABASE

This year saw a major overhaul of the Bulletin on Constitutional Case-Law, first published in January 1993. The Bulletin has now become fully electronic, no paper form will be published

from now on, with the exception of thematic special Bulletins requested by the CECC (see below), and has been renamed the electronic Bulletin (e-Bulletin on Constitutional Case-Law). The e-Bulletin will continue to be published three times a year, containing summaries of the most important decisions provided by the constitutional courts or equivalent bodies of all 61 member states (102 courts counting those from non-member states), associate member states and observer states as well as the European Court of Human Rights, the Court of Justice of the European Union and the Inter-American Court of Human Rights. The contributions to the e-Bulletin are supplied by liaison officers appointed by the courts themselves.

The e-Bulletin's main purpose is to encourage an exchange of information between courts and to help judges settle sensitive legal issues, which often arise in several countries simultaneously. 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 exchange of information as well as from the judgments of their counterparts in other countries.

In 2018, précis on 355 judgments were published in three regular issues of the Bulletin and 280 in the Special Bulletin on Constitutional Principles.

The CODICES database presents the leading constitutional case-law of Constitutional Courts and Courts with equivalent jurisdiction to the public. The CODICES database contains over 10 000 Court decisions (summaries, called Précis, in English and French as well as full texts of the decisions in 43 languages) together with Constitutions, laws on the Courts and court descriptions explaining their functioning. The contributions, presented in CODICES, are prepared by liaison officers appointed by the Courts themselves. This is an essential guarantee for the quality of the information presented in CODICES.

In 2018, the Constitutional Courts contributed actively to the CODICES database, which was updated regularly. More than 400 cases were added to the CODICES database, which helps the constitutional courts to refer to the experiences and the case-law of courts in other countries and participating European and international courts. The number of page visits of the CODICES database increased significantly. The constitutional courts reported numerous references to international case-law in their judgments, notably to the European Court of Human Rights.

In 2018, the CODICES database was improved by simplifying the server structure and by speeding up the production of the database. Main elements of new Alert Management System and an on-line data entry mask have been added to CODICES. Eventually, the Alert Management System will allow the users to register requests for new alerts on constitutional case-law summaries fulfilling certain criteria.

4. VENICE FORUM

The on-line Venice Forum is a restricted platform on which liaison officers, appointed by constitutional courts or courts with equivalent bodies, can exchange information. The Venice Forum contains several elements:

- The restricted *Newsgroup* enables courts to actively share information with each other, e.g. to make on-line announcements on changes to their composition, on recent key judgments and to make various requests for general information. In 2018, 22 posts were made in the Newsgroup.
- The restricted *Classic Venice Forum* enables courts to ask other courts for specific information on case-law. In 2018, the *Classic Venice Forum* dealt with 35 comparative law research requests covering questions that ranged from the status of the Church of the Flying Spaghetti Monster, remuneration of prisoners' labour, transgender rights, the status of refugees to the constitutionality of a referendum and State decorations.

- The *Constitutional Justice Media Observatory* provides an overview of the work of courts as reported in online media. As in previous years, the Venice Commission has offered all members and liaison officers the possibility of subscribing to the Constitutional Justice Media Observatory. The Observatory is sent in the form of an e-mail and presents information on news agency dispatches and press articles relating to constitutional courts and equivalent bodies. The information presented is the result of an Internet search in English and in French and does not purport to provide a complete picture of any decision or development of constitutional justice in general. Although the Venice Commission cannot vouch for the accuracy of the information sent, it can add any information provided by the court concerned or remove an alert, upon request. In 2018, 822 of these Constitutional Justice Media Observatory articles were sent to subscribers (members and liaison officers).
- The *Interim Bulletin* enables the liaison officers to follow the progress of their contributions to the Bulletin on Constitutional Case-Law in real time, through all the stages of the production (proof-reading in the original language – English or French, control of headnotes and indexing according to the Systematic Thesaurus, translation into the other language, and parallel proof-reading of the translation). Other liaison officers can also access the contributions of their peers at all these stages.

The *Newsgroup*, the *Constitutional Justice Observatory* and the *Venice Forum* are also open to courts working with the Venice Commission within the framework of regional agreements (see below).

5. REGIONAL CO-OPERATION

On the basis of various co-operation agreements, constitutional courts united in regional or language based groups can contribute to the CODICES database and to the Venice Forum (see above).

Association of Asian Constitutional Courts and Equivalent Institutions (AACC)

In addition to the Training Secretariat in Ankara, Turkey, there is one AACC Secretariat in Seoul, Korea, which deals with research and development, and another Secretariat in Jakarta, Indonesia, which deals with planning and co-operation. An international symposium was organised in Seoul in October of 2017 as an inaugural event for the AACC Research and Development Secretariat. The Research and Development Secretariat in Seoul was currently setting up a secondment programme and so far, there were two secondments, one from Mongolia and the other from Indonesia.

The secretariat of the AACC in Indonesia, which deals with planning and co-operation, regularly holds an annual event in August, except for in 2018, due to the local and regional election cases that the Constitutional Court had to deal with. There were many cases that needed to be dealt with between July and August 2018. The international symposium was therefore rescheduled to 1-4 October 2018 in Jakarta on the theme “*Constitutional courts and constitutionalism in political dynamics*” – on the second and third day a short course for registrars and researchers were held. There was also a meeting of liaison officers of the AACC in Indonesia on 18 October 2018.

The AACC participated in the WCCJ’s 13th Bureau meeting in Venice, Italy on 17 March 2018 (see below).

Association of Constitutional Courts using the French Language (ACCPUF)⁹

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 in 2018.

⁹ See the co-operation page: <http://www.venice.coe.int/ACCPUF/>.

The 8th congress of ACCPUF will take place in Montréal, Canada on 30 April-3 May 2019.

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

The Chairman of the Constitutional Council of Kazakhstan, Mr Kairat Abdrazakuly Mami, was elected chair of the CCCOCND in December 2017. In May 2018, the CCCOCND organised a meeting in St. Petersburg, on the occasion of the international conference organised by the Constitutional Court of the Russian Federation on “*Constitution in the Global Change Epoch and the Goals of Constitutional Review*”, at which it changed its logo, decided to create a website and the members agreed to continue co-operation with the Venice Commission and the WCCJ.

Another meeting of the CCCOCND took place in Astana, Kazakhstan on 28 August 2018 on the Constitution Day of Kazakhstan. The Venice Commission participated in both events.

The CCCOCND participated in the WCCJ's 13th Bureau meeting in Venice, Italy on 17 March 2018 (see below).

Conference of Constitutional Jurisdictions of Africa (CCJA)

Co-operation between the CCJA and the Venice Commission is based on a co-operation agreement signed in Cotonou, Benin, in May 2013.

The Venice Commission regularly took part in the activities of the CCJA. The CCJA held its 9th session of the executive bureau in Durban. It will hold a 5th Congress in June 2019 in Luanda, Angola. A 3rd International seminar will be organised together with the 10th session of the executive bureau, however no date or place has yet been fixed.

The CCJA participated in the WCCJ's 13th Bureau meeting in Venice, Italy on 17 March 2018 (see below).

Conference of European Constitutional Courts (CECC)¹⁰

Since 1999, the Joint Council produces working documents upon request of the presidencies of the CECC on the topics of their congresses. These working documents consist of extracts from the CODICES database 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*.

The Constitutional Court of the Czech Republic currently holds the chairmanship of the Conference of European Constitutional Courts (CECC).

The Venice Commission was represented at the preparatory meeting of the Circle of Presidents for the XVIIIth Congress of the CECC, which took place in Prague on 13-14 June 2018. The Venice Commission had been asked for the first time to present a report to the CECC in support of the constitutional courts in member states and beyond. The Venice Commission presented opinions and declarations since 2016.

At this meeting, it was decided that the XVIIIth Congress will take place in June 2020 on the topic “*Human Rights at the national, supranational and international level in the 21st century*”. The Circle of Presidents (not only the CECC chairmanship) had asked the Venice Commission to prepare a special issue of the Bulletin on Constitutional Case-Law as a working document for the XVIIIth Congress.

¹⁰ See the co-operation page: <http://www.venice.coe.int/CECC/>.

Vice-President Fenyk of the Czech Constitutional Court was elected general rapporteur for the XVIIIth Congress and the CECC had received a request for associate membership from the Constitutional Court of Kosovo, which the Circle of Presidents has added to the agenda of its next meeting.

The CECC also participated in the WCCJ's 13th Bureau meeting in Venice, Italy on 17 March 2018 (see below).

Conference of Constitutional Courts of Portuguese Speaking Countries (CJCPLP)

A co-operation Agreement between the CJCPLP and the Venice Commission was signed in May 2012 in Maputo, Mozambique. Shortly after its establishment, the CJCPLP became one of the founding regional groups of the World Conference on Constitutional Justice (WCCJ).

The Supreme Court of Guinea Bissau had held the presidency of the CJCPLP since 2016, but was now unable to carry out any activities due to the political situation in the country. There was no government since the beginning of 2018. There is a proposal to ask the Constitutional Court of Portugal to take over the presidency, however, no formal decision had yet been made.

Ibero-American Conference of Constitutional Justice (CIJC)

The Venice Commission's co-operation deepened with the Ibero-American Conference of Constitutional Justice (CIJC), presided by the Supreme Court of Panama, which chaired a group meeting at the 4th Congress of the WCCJ in Vilnius and joined the WCCJ shortly after that.

The XIIth Conference of the CIJC that took place in Panama in May 2018 had very fruitful discussions on the relations between constitutional courts and ordinary courts, which can be strained especially when there is a full individual constitutional complaint to the constitutional court. It was decided during this conference that the XIIIth Conference of the CIJC will take place in Colombia in 2020.

The CIJC participated in the WCCJ's 13th Bureau meeting in Venice, Italy on 17 March 2018 (see above).

Southern African Chief Justices Forum (SACJF)

The co-operation agreement signed in Maseru, Lesotho in 2007 forms the basis of the co-operation between the Venice Commission and the SACJF.

The SACJF informed the Venice Commission about its support for the Supreme Court of the Seychelles, notably that upon invitation by the Judiciary of the Seychelles, the SACJF undertook a fact-finding mission to the Seychelles in the context of disciplinary proceedings against the Chief Justice with a view to impeach her. The overall objectives of the mission were to establish facts on the ground and to make practical suggestions to resolve fundamental issues affecting the rule of law, separation of powers as well as the independence of the judiciary in that country. Chief Justice Shivute led the mission and was accompanied by the Chief Justice of Malawi. They compiled a public Final Report of their findings. The report was shared with all the key Seychelles State institutions and within the SACJF. The report was well-received, both inside and outside the Seychelles and the SACJF's mission made an important contribution to efforts aimed at resolving issues affecting the judiciary of the Seychelles.

Union of Arab Constitutional Courts and Councils (UACCC)

Co-operation between the Venice Commission and the UACCC is based on a co-operation agreement signed in Cairo, Egypt, in June 2008.

The President of the Venice Commission participated in the UACCC's 10th symposium in Cairo, Egypt in April 2018. A workshop took place in Jordan in co-operation with the Venice Commission on 4 December 2018 in Amman (see chapter V).

The UACCC participated in the WCCJ's 13th Bureau meeting in Venice, Italy on 17 March 2018 (see below).

6. WORLD CONFERENCE ON CONSTITUTIONAL JUSTICE (WCCJ)

According to the Statute of the WCCJ, the Venice Commission acts as the Secretariat of the WCCJ.

The WCCJ unites 114 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 1.2 of the Statute).

The WCCJ 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 WCCJ 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 exchange of information that takes place between judges in the WCCJ further reflects on the arguments which promote the basic goals inherent in 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 countries.

In 2018, two constitutional courts and equivalent bodies joined the WCCJ as full members. These are: the Supreme Constitutional Court of Palestine¹¹ and the Supreme Court of Finland.

On 17 March 2018, the 13th meeting of the Bureau of the WCCJ took place in Venice, Italy. During this meeting, the Bureau:

- took note of the financial report submitted by the Secretariat and decided that the World Conference should cover the expenses of the Least Developed Countries' representatives from regional or linguistic groups, but only if a request to do so was made and the group was unable to meet the cost;
- approved "Constitutional Justice and Peace" as the topic of the 5th Congress in Algiers in 2020 and invited the Constitutional Council of Algeria and the Secretariat to prepare a concept note and questionnaire on this topic;
- approved the preparation of a training session on CODICES and the Venice Forum in co-operation with the Constitutional Court of the Dominican Republic in February 2019;
- requested the Secretariat to prepare a note on how Member Courts under undue pressure could be supported by the WCCJ;
- decided that the next Bureau meeting will be held in the first week of February 2019 in the Dominican Republic.

The latter part of 2018 was devoted to the preparation of the 1st WCCJ Training on CODICES and the Venice Forum (February 2019).

¹¹ This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of Council of Europe member States on this issue.

IV. ELECTIONS, REFERENDUMS AND POLITICAL PARTIES / ELECTIONS, REFERENDUMS ET PARTIS POLITIQUES

1. COUNTRY SPECIFIC ACTIVITIES / ACTIVITÉS PAR PAYS

Albania

In October 2017, an Ad-Hoc Parliamentary Committee “On the Implementation of the Electoral Reform” had been established to address the recommendations of the OSCE/ODIHR Reports on the last three elections of 2013, 2015 and 2017, with the aim of preparing draft amendments to the Electoral Code and other election related legislation.

In February 2018, the Albanian Speaker forwarded an official request to the Venice Commission to assist the work of the Ad-Hoc Committee. The proposed activities for the Venice Commission’s expert assistance had been defined in close co-ordination with the co-chairs of the Ad-Hoc Committee and international partners in order to ensure maximum coherence and avoid the duplication of efforts. Four areas were targeted: new voting technologies, out-of-country voting for emigrants, media and campaign issues, and election administration.

Venice Commission experts prepared reports on new voting technologies and out-of-country voting. They also participated in the workshops organised by the Ad-Hoc Committee in cooperation with the OSCE on the four above-mentioned issues.

Armenia

Follow-up to the Joint Opinion on the draft Law on Referendum (CDL-AD(2017)029)

The Constitutional Law on Referendum was adopted by the Parliament on March 23, 2018 and had been in force since 9 April 2018. A number of key recommendations of the joint opinion have been followed, at least partially, concerning: the need for a clear and not misleading question; the provision of objective information (more precisely, explanatory reports from both the “yes” and “no” sides, albeit to the polling stations and not to voters); the clarification of the rules on the collection of signatures. The adopted law also follows other recommendations of the joint opinion: it provides for the duty of neutrality of administrative authorities, by prohibiting public sector employees from taking part in campaigns; it provides for the formation of precinct electoral commissions with representation of the referendum proposal’s supporters and opponents; it makes observation by NGOs easier by extending it to those created six months rather than one year before the elections. Some key recommendations have however not yet been followed, concerning: the need for clearly addressing the unity of content of the referendum proposal; the need for ensuring the review of draft popular initiatives by the Constitutional Court before and not after additional signatures have been collected; allowing more than one structure for the “yes” and “no” votes, respectively.

Déclaration du Président de la Commission :

Le 19 octobre 2018, le Président de la Commission de Venise a fait la déclaration suivante : suite aux discussions entre la Commission de Venise et le premier vice-Premier Ministre de l’Arménie lors de la 116e session de la Commission de Venise, il :

- Reconnaît et soutient la manière pacifique employée par le peuple arménien pour effectuer le changement ;
- Reconnaît la situation spécifique de l’Arménie, qui implique l’organisation d’élections anticipées ;
- Se félicite de l’engagement des autorités arméniennes à se conformer aux normes internationales lors de la révision du Code électoral ;
- Note que les amendements proposés visent des objectifs légitimes et semblent pour la plupart positifs ;

- Se félicite en particulier de toutes les mesures prises pour faciliter l'exercice du droit de vote, pour étendre l'accès aux médias, les droits des observateurs et plus généralement la transparence du processus électoral, ainsi que pour lutter contre la fraude électorale ;
- Se félicite de l'abolition des restrictions au nombre de participants aux coalitions formées après le premier tour, en conformité avec une recommandation principale de la Commission de Venise et du BIDDH ;
- Se félicite de la mise en œuvre d'autres recommandations de la Commission de Venise et du BIDDH, concernant en particulier :
 - La réduction des seuils électoraux et des seuils appliqués pour le remboursement des cautions électorales ; la réduction des cautions électorales ;
 - La réduction des délais pour l'accréditation des observateurs et des représentants des médias, ainsi que la suppression des obstacles au travail des observateurs, comme la possibilité de limiter leur nombre ;
 - Les garanties visant à assurer le vote libre des militaires.
- Rappelle les réserves de la Commission de Venise en ce qui concerne les changements majeurs du système électoral, comme l'abolition des listes de circonscription, dans l'année précédant les élections ;
- Note que ces réserves sont moins déterminantes en cas de consensus des forces politiques sur le changement.

Assistance juridique à une mission d'observation de l'Assemblée parlementaire (élections législatives anticipées, 9 décembre 2018)

Une délégation de la Commission de Venise a accompagné la mission d'observation de l'Assemblée parlementaire du Conseil de l'Europe (APCE) afin de la conseiller sur le cadre juridique des élections législatives anticipées qui se déroulaient le 9 décembre 2018 en Arménie. La délégation de l'APCE a observé l'ouverture du scrutin, son déroulement et les opérations de dépouillement.

Azerbaïdjan

Assistance juridique à une mission d'observation de l'Assemblée parlementaire (élection présidentielle anticipée, 11 avril 2018)

Une délégation de la Commission de Venise a accompagné la mission d'observation de l'Assemblée parlementaire du Conseil de l'Europe (APCE) afin de la conseiller sur le cadre juridique de l'élection présidentielle anticipée qui se déroulait le 11 avril 2018 en Azerbaïdjan. La délégation de l'APCE a observé l'ouverture du scrutin, son déroulement et les opérations de dépouillement.

Bosnie-Herzégovine

Assistance d'experts à la révision de la législation électorale (Sarajevo, 22-24 mai et 4-5 juin 2018)

En accord avec les partis politiques de la Fédération de Bosnie-Herzégovine, dans le contexte des efforts de l'Union européenne et des États-Unis pour faciliter la réforme électorale, et suite à une demande formelle de l'Union européenne, la Commission de Venise a participé à deux séries de réunions avec les participants au processus électoral, afin de fournir l'assistance d'experts dans le processus en cours de discussion sur les nécessaires changements de la législation électorale, en particulier en ce qui concerne l'élection de la Chambre des peuples de la Fédération de Bosnie-Herzégovine.

Assistance juridique à une mission d'observation de l'Assemblée parlementaire (élections générales, 7 octobre 2018)

Une délégation de la Commission de Venise a accompagné la mission d'observation de l'Assemblée parlementaire du Conseil de l'Europe (APCE) afin de la conseiller sur le cadre juridique des élections générales qui se déroulaient le 7 octobre 2018 en Bosnie-Herzégovine. La délégation de l'APCE a observé l'ouverture du scrutin, son déroulement et les opérations de dépouillement.

Egypte

Voir le chapitre V.

Géorgie

Assistance juridique à une mission d'observation de l'Assemblée parlementaire (élection présidentielle, 28 octobre et 28 novembre 2018)

Une délégation de la Commission de Venise a accompagné la mission d'observation de l'Assemblée parlementaire du Conseil de l'Europe (APCE) afin de la conseiller sur le cadre juridique à l'occasion des deux tours de l'élection présidentielle qui se sont déroulés les 28 octobre et 28 novembre 2018 en Géorgie. La délégation de l'APCE a observé l'ouverture du scrutin, son déroulement et les opérations de dépouillement.

Italie

Le 3 décembre 2018, la Commission de Venise a participé à une audition de la Commission des affaires constitutionnelles de la Chambre des Députés de l'Italie sur un projet d'amendement constitutionnel en matière d'initiative populaire législative.

Kirghizistan

Voir le chapitre V.

Kosovo

Draft law on amending and supplementing the Law on the Financing of Political Entities (CDL-AD(2018)016)

The opinion was requested by the Prime Minister of Kosovo and adopted by the Venice Commission in June 2018. It welcomed that the Government of Kosovo had submitted this first request for a legal opinion, four years after Kosovo became a full member of the Commission in 2014. The draft law under scrutiny contained significant amendments to the Law on the Financing of Political Entities and the Law on General Elections. It clarified the definition of a contribution to a political entity, strengthened publication requirements with respect to information on political entities' finances and included new tools for monitoring compliance with the rules. At the same time, the draft opinion recommended several further amendments, in particular giving the competent Office under the Central Election Commission a clear mandate for financial monitoring, strengthening its independence and operational capacities, enhancing the regime of sanctions available for infringements of party and campaign funding rules and providing for consistent appeal channels. Moreover, the need to involve various political parties – including from the opposition – more broadly and effectively in the further legislative process should be given more emphasis.

Mexique

Voir le chapitre V.

Monténégro

Assistance juridique à une mission d'observation de l'Assemblée parlementaire (élection présidentielle, 15 avril 2018)

Une délégation de la Commission de Venise a accompagné la mission d'observation de l'Assemblée parlementaire du Conseil de l'Europe (APCE) afin de la conseiller sur le cadre juridique de l'élection présidentielle qui se déroulait le 15 avril 2018 au Monténégro. La délégation de l'APCE a observé l'ouverture du scrutin, son déroulement et les opérations de dépouillement.

Republic of Moldova

Amendments to the electoral legislation ([CDL-AD\(2018\)008](#))

At the request of the Chair of the Monitoring Committee of the Council of Europe's Parliamentary Assembly, the Council for Democratic Elections and the Venice Commission adopted in March 2018 a Joint Opinion of the Venice Commission and the OSCE/ODIHR on Amendments to the Electoral Legislation of the Republic of Moldova, which was a follow-up to the opinion adopted in June 2017 on the draft amendments to this legislation. It focused on amendments adopted after the previous opinion and had to be read in conjunction with the opinion on the financing of political parties adopted in December 2017. The legislation under consideration had introduced a mixed system, while the 2017 and 2014 opinions had raised serious concerns over the introduction of such a system, since single-member constituencies could be vulnerable to undue influence of local businesspeople. This conclusion was still valid in the absence of new information.

A considerable number of recommendations had been addressed, at least partially. However, the opinion still made several recommendations for improvement, notably following the introduction of single-member constituencies. In particular, it reiterated the recommendation to lower thresholds. Concerning the establishment and drawing of constituencies, the law provided for an independent commission appointed by the government; while its composition was broad and inclusive, too wide a discretion was given to the government, so there was no guarantee of a balanced representation. The criteria for constituency borders were clearly set out in the law, in conformity with the Code of good practice in electoral matters; however, a number of constituencies exceeded the law's maximum size. The establishment of constituencies and polling stations in Transnistria and abroad raised particular challenges: the criteria for their establishment could be further clarified.

Macédoine du Nord

Assistance juridique à une mission d'observation de l'Assemblée parlementaire (référendum, 30 septembre 2018)

Une délégation de la Commission de Venise a accompagné la mission d'observation de l'Assemblée parlementaire du Conseil de l'Europe (APCE) afin de la conseiller sur le cadre juridique du référendum qui se déroulait le 30 septembre 2018. La délégation de l'APCE a observé l'ouverture du scrutin, son déroulement et les opérations de dépouillement.

Norvège

Réforme électorale

A l'invitation de la Commission sur la réforme électorale, la Commission de Venise a participé le 17 avril 2018 à une réunion avec cette Commission, composée de représentants politiques, du monde académique et d'experts, instituée par décret pour un mandat de deux ans et qui vise à faire des propositions de réforme de la loi électorale de la Norvège au Storting (le parlement

norvégien) d'ici à 2020. Lors de cette rencontre, les experts de la Commission de Venise ont présenté les principes et émis des recommandations sur les thèmes suivants : le traitement des recours électoraux ; la répartition des sièges entre les circonscriptions électorales ; la privation du droit d'être élu ; l'utilisation des technologies digitales dans les élections ; la participation des personnes handicapées aux élections.

Tunisie

Avis sur le projet de loi organique relatif à l'organisation des partis politiques et à leur financement ([CDL-AD\(2018\)025](#))

Voir le chapitre V.

Turkey

Amendments to the electoral legislation and related "harmonisation laws" adopted in Turkey in March and April 2018 ([CDL-AD\(2018\)031](#))

At the request of the Chair of the Monitoring Committee of the Council of Europe's Parliamentary Assembly, the Council for Democratic Elections and the Venice Commission adopted in December 2018 a Joint Opinion of the Venice Commission and the OSCE/ODIHR on amendments to the electoral legislation and related "harmonisation laws" adopted in Turkey in March and April 2018. The amendments had been adopted in a hasty and non-inclusive way just a few weeks before the elections, contrary to the principle of stability of the fundamental elements of electoral law. Most amendments – at least the March ones – were not made necessary by the constitutional revision. On substance, the opinion acknowledged that the new possibility of alliances could partly mitigate the too high threshold, but not for the parties not belonging to alliances; the opinion also criticised changes in the composition and leadership of the electoral administration, and that a number of safeguards for transparency and security had been affected.

Assistance juridique à une mission d'observation de l'Assemblée parlementaire (élection présidentielle anticipée et élections législatives, 24 juin 2018)

Une délégation de la Commission de Venise a accompagné la mission d'observation de l'Assemblée parlementaire du Conseil de l'Europe (APCE) afin de la conseiller sur le cadre juridique de l'élection présidentielle anticipée et des élections législatives qui se déroulaient le 24 juin 2018 en Turquie. La délégation de l'APCE a observé l'ouverture du scrutin, son déroulement et les opérations de dépouillement.

Ukraine

Follow-up to the Opinion on the Amendments to the Law of Ukraine on elections regarding the exclusion of candidates from party lists ([CDL-AD\(2016\)018](#))

On 16 February 2016 the Verkhovna Rada of Ukraine adopted Law N° 1006-VIII amending the Law on elections of people's deputies of Ukraine allowing the exclusion of candidates for people's deputies of Ukraine from the election list in the national multi-member constituency after the tabulation of electoral results. Several political parties immediately excluded a number of candidates from their lists.

Further to a request from the Monitoring Committee of the Parliamentary Assembly, the Commission adopted an opinion on this law in June 2016. It considered as contrary to international standards the empowerment of political parties *ex post facto* to deny the electorate the right to make a choice and to choose who to place on party lists in a position to be elected. It recommended that the power of political parties to remove from their lists, after an election has taken place, candidates who at the time were "deemed unelected" but retained the potential to be elected, should be removed in the light of European standards.

The 2016 opinion was widely discussed in Ukraine in 2017.

On 21 December 2017, the Constitutional Court of Ukraine declared unconstitutional the right of political parties to exclude candidates from their lists after the tabulation of electoral results. The Court's decision made direct references to the Venice Commission's 2016 opinion.

Follow-up to the Opinion on the law on national referendum of Ukraine ([CDL-AD\(2013\)017](#))

On 27 April 2018 the Constitutional Court of Ukraine, referring to Venice Commission texts, declared the law on the national referendum unconstitutional, both on procedural and on substantive grounds, since the law enabled the Constitution to be amended directly by referendum, without following the constitutional amendment procedure requiring a qualified majority in the Verkhovna Rada. This aspect of the law was strongly criticised in the Venice Commission's opinion. The issue is in effect much older since already in its opinion on the referendum launched by President Kuchma in 2000 ([CDL-INF\(2000\)011](#)) the Venice Commission had underlined that the Verkhovna Rada could not be bypassed by the President submitting constitutional amendments directly to referendum. It had insisted on this point repeatedly in its subsequent opinions on planned constitutional reforms in Ukraine, since also other Presidents had been tempted by the idea of increasing their powers by referendum. This judgment by the Constitutional Court now removed a threat for the functioning of democracy in Ukraine.

Roundtable on reform of electoral legislation (Kiev, 4 – 5 April 2018)

In the framework of the "Electoral systems week" and in co-operation with IFES, USAID and other international partners the Venice Commission co-organised a Round Table on the electoral reform process in Ukraine. This event brought together representatives of the Ukrainian authorities, MPs, NGOs, national and international experts who discussed the current initiatives aimed at reforming the electoral legislation in Ukraine.

Participants welcomed the establishment of a Working Group by the Parliamentary Committee on Legal Policy and Judiciary to prepare the Draft Election Code for the second reading. They expressed their hope that the Working Group would organise its work in a transparent, inclusive, thorough and expedited manner.

Round Tables on the draft election code of Ukraine organised in regional centres of Ukraine.

From June to September 2018, the Venice Commission organised regional public discussions on the draft Election Code of Ukraine in 12 regional centres of Ukraine: Vinnytsia, Chernigov, Rivne, Chernivtsi, Khmelnytsky, Odessa, Mykolayiv, Kherson, Zaporizhia, Kropyvniysky, Dnipro and Lviv. More than 500 participants took part in these regional discussions. These events were aimed at discussing the main issues of the draft election code with the interested parties, as well as developing recommendations for the Rada's Working Group in preparation of the draft code for the second reading in the Rada.

Based on the results of these regional public discussions on the draft election code of Ukraine, a document entitled "Analysis and proposals for amendments to the draft election code" was prepared and published. The publication included analytical materials, conclusions and recommendations of experts aimed at helping the Verkhovna Rada's working group on reform of electoral legislation and competent committees to prepare the draft code for the second reading. This publication was sent to MPs, and also transmitted to the Working Group of the Committee on Legal Policy and Judiciary of the Verkhovna Rada.

Pilot training course for judges "Election dispute resolution" (Odessa, 19 – 20 July 2018)

In 2018 the Venice Commission together with the National School of Judges of Ukraine, prepared and launched the training course for judges of administrative courts "Election Dispute Resolution".

The course included such topics as: international standards and principles of democratic election; overview of national election law; classification of electoral disputes during the election process; peculiarities of protection of rights of voters during the electoral and referendum process; and European Court of Human Rights case law on electoral disputes.

The training course was developed by the National School of Judges of Ukraine in co-operation with the Council of Europe Projects "Supporting constitutional and legal reforms, constitutional justice and assisting the Verkhovna Rada in conducting reforms aimed at enhancing its efficiency" and "Supporting the transparency, inclusiveness and integrity of electoral practice in Ukraine" in the framework of the 2018-2021 Council of Europe's Action Plan for Ukraine.

Training for trainers of judges on election dispute resolution (Kyiv, 26 – 28 November 2018)

The training session was attended by 20 judges of the administrative courts of Ukraine - trainers of regional training centres of the National School of Judges of Ukraine. This training course was extremely relevant for judges of administrative justice, especially in the light of the country's plans to hold presidential and parliamentary elections in 2019.

The course used the materials prepared on the basis of the conclusions and recommendations of the pilot training that had taken place in Odessa in July 2018.

This Training of Trainers activity used interactive forms of training. It is intended that, after approval, the course "Election dispute resolution" will be actively used by the regional centres of the National School of Judges in view of the forthcoming presidential and parliamentary elections in 2019.

The training course was developed by the National School of Judges of Ukraine as part of the Council of Europe Projects "Supporting constitutional and legal reforms, constitutional justice and assisting the Verkhovna Rada in conducting reforms aimed at enhancing its efficiency" and "Supporting the transparency, inclusiveness and integrity of electoral practice in Ukraine" within the framework of the Council of Europe Action Plan for Ukraine for 2018-2021.

Uzbekistan*Joint Opinion on the draft Election Code ([CDL-AD\(2018\)027](#))*

See chapter V.

2. TRANSNATIONAL ACTIVITIES / ACTIVITÉS TRANSNATIONALES**1.2. Studies and reports***Rapport sur les limitations de mandat - Partie I - Présidents ([CDL-AD\(2018\)010](#))*

L'Organisation des Etats Américains a posé quatre questions à la Commission, auxquelles le rapport sur la limitation des mandats – Partie I - Présidents apporte des réponses.

Le rapport adopté en mars 2018 énonce tout d'abord qu'il n'existe pas un droit spécifique à la réélection : la limitation de celle-ci n'est qu'une modalité ou une restriction du droit d'être élu, qui est un aspect du droit à la participation politique. L'élimination des limites à la

réélection peut engendrer des concentrations excessives de pouvoir, qui porteraient atteinte au droit de participation. La possibilité de réélection dépend du modèle constitutionnel.

Les démocraties fixent des limites aux mandats dans leurs constitutions, particulièrement dans les systèmes présidentiels ou semi-présidentiels où un système de poids et contrepoids est nécessaire. Ces limites dérivent d'un choix souverain justifié par le maintien de la démocratie. Par conséquent, les limites au mandat présidentiel ne restreignent pas les droits des aspirants candidats de manière excessive.

La restriction aux droits des électeurs n'est pas disproportionnée non plus ; la capacité de choix est premièrement limitée par le nombre réduit de places disponibles, par les conditions légales du droit de vote et par les règles électorales. La limitation du mandat présidentiel est une autolimitation du droit de vote dans le but de préserver d'autres valeurs démocratiques. Au contraire, la limitation du mandat protège le droit de participation.

Toute modification des limitations du mandat présidentiel doit suivre la procédure constitutionnelle et faire l'objet d'un débat public étendu. Les modifications résultant en une augmentation du pouvoir exécutif ne devraient pas entrer en vigueur pour le Président en exercice. Un référendum n'est envisageable que s'il est prévu par la constitution, et après l'adoption des amendements constitutionnels par le pouvoir constituant. Finalement, les cours constitutionnelles ou suprêmes ne devraient jouer un rôle qu'après l'adoption par le pouvoir constituant.

Identification of electoral irregularities through statistical methods ([CDL-AD\(2018\)009](#))

The Council for Democratic Elections and the Venice Commission took note of the report on the identification of electoral irregularities through statistical methods in March 2018.

According to the report, statistical identification of electoral irregularities was a new, quickly developing field. Since most results were accessible online, methods which needed little staff and money could be used to help identify electoral irregularities, in combination with classical methods. However, they could be bypassed by fraudsters.

The report referred to three approaches:

1) Numeral based methods, which relied on the occurrence of the last or other digits. These methods were based on the following assumptions: (a) Frequencies of numerals in correct elections are known and invented numbers will not correspond to them; (b) the results are correct subject to evidence to the contrary; (c) there is a threshold for evidence of irregularity; however, there were problems with all these assumptions.

Another group of numeral methods, instead of asking "were there irregularities", asked "what was their extent", so there was no need for an arbitrary threshold. The results were then split into two groups: the questioned results and the results believed to be correct, to be compared.

2) Shares based methods: for example, shares of voters who turned out, or yes votes in various polling stations were compared, and suspect results were identified (such as an excessive number of similar turnouts, or clusters of polling stations with suspect shares of winner's/invalid votes).

3) Risk limiting audits: this was the most rigorous method. It required physical access to ballots or records assuming that the results were not correct, and led to an audit on a random sample. It implied assuming that certain results were not correct, and looking for evidence that they were.

In short, there were multiple statistical methods, which were a less expensive complement to conventional methods and did not suffice for definitive conclusions. Different methods were

sensitive to different forms of irregularities. Methods complemented each other, since each of them could not alone bring a conclusion. There was also new research on combining different sources of evidence such as election observation or reports by voters. For example, these kinds of evidence could help to identify polling stations which are better candidates for auditing.

Follow-up to the Joint Opinion on the draft checklist for compliance with international standards and best practices preventing misuse of administrative resources during electoral processes at local and regional level of the Congress of Local and Regional Authorities of the Council of Europe ([CDL-AD\(2017\)006](#))

Further to a request by the Congress, the Venice Commission adopted in March 2017 a joint opinion with the OSCE/ODIHR on the compatibility of the Congress' draft checklist for compliance with international standards and best practices preventing misuse of administrative resources during electoral processes at local and regional level with international standards in the electoral field and the related reference documents of the Venice Commission. The Commission's opinion concluded that the checklist is in conformity with international electoral standards as established *inter alia* by the Venice Commission and OSCE/ODIHR documents dedicated to the misuse of administrative resources during electoral processes.

However, the opinion suggested several improvements, in particular to make the checklist more user-friendly. These improvements could not be made before the adoption of the Checklist on 20 March 2017. They were however made in the document entitled "Administrative resources and fair elections – a practical guide for local and regional politicians and public officials". In particular, this document includes lists of questions entitled "reference points to assess the situation" which make it practical and user-friendly.

Mise à jour des lignes directrices pour garantir des référendums équitables dans les États membres du Conseil de l'Europe

Voir la partie VI.1.

2.2. Compilation of Venice Commission opinions and reports concerning new technologies in the electoral process (CDL-PI(2018)011)

The Venice Commission endorsed the Compilation of Venice Commission opinions and reports concerning new technologies in the electoral process in December 2018. This compilation is to be seen in the context of the Commission's further activities in this highly topical field, including the 15th European Conference of Electoral Management Bodies on "Security in Elections" (Oslo, 19-20 April 2018) and the current preparation of a study on "Social Media and Elections" whose adoption is envisaged for 2019.

2.3. Conférences co-organisées par la Commission

15^e Conférence européennes des administrations électorales sur le thème de la « Sécurité dans les élections » (Oslo, 19-20 April 2018)

La conférence a été co-organisée par la Commission de Venise et la Section des élections du Ministère des collectivités locales et de la modernisation de Norvège. Elle a couvert à la fois la sécurité matérielle et l'intégrité physique des personnes pendant les processus électoraux, mais également la cybersécurité. Après avoir rappelé les normes, standards et bonnes pratiques destinés à sécuriser les élections et notamment le rôle essentiel de la [Convention de Budapest sur la cybercriminalité](#), les participants à la conférence ont débattu de la sécurité électorale visant à assurer l'intégrité et donc la légitimité électorales. Le deuxième jour, les participants ont axé leurs discussions sur la lutte contre la cybercriminalité et les moyens d'améliorer la cyber-sécurité.

Environ 150 participants de 31 pays ont pris part à cette quinzième conférence, à savoir des représentants des administrations électorales nationales et d'autres institutions impliquées dans les processus électoraux, mais également des spécialistes des technologies de l'information et de la communication, des universitaires et des représentants d'organisations non gouvernementales. Plusieurs institutions internationales ont également participé à la conférence.

Dans ses conclusions, la conférence a fait référence aux principaux documents pertinents du Conseil de l'Europe, notamment la Convention de Budapest, mais aussi la recommandation du Conseil de l'Europe sur le vote électronique. Les conclusions soulignent également que les administrations électorales devraient coopérer avec d'autres institutions publiques, telles que la police, non seulement dans le pays, mais également à l'étranger; concernant la désinformation et les infox sur les réseaux sociaux, il est nécessaire de coopérer avec des acteurs privés tels que Facebook ou Twitter.

2e entretiens scientifiques des experts électoraux - Le suffrage égal (Sinaia, Roumanie, 3-4 mai 2018)

Les deuxièmes entretiens scientifiques des experts électoraux, coorganisées par l'Autorité électorale permanente de la Roumanie (AEP) et la Commission de Venise, se sont tenus les 3-4 mai 2018 à Sinaia, Roumanie, sur le thème « Le suffrage égal ».

Les Entretiens scientifiques des experts électoraux sont destinés à devenir un événement régulier impliquant des spécialistes du droit électoral ayant des expériences diverses, notamment des universitaires et des administrateurs d'élections, afin de discuter de questions de portée aussi bien théorique que pratique. Les rapports présentés durant les débats ont été publiés dans la seule revue européenne consacrée au droit électoral, la Revue roumaine de droit électoral (anciennement «Expert électoral»), vol. VI, nr 1, 2018.

Les participants ont discuté en particulier des questions suivantes :

- Les différents aspects du principe d'égalité et leurs implications dans le domaine des élections ;
- L'égalité de la force électorale et l'attribution des sièges aux circonscriptions ;
- Egalité et parité des sexes ;
- Le suffrage égal dans un environnement en mutation.

Séminaire parlementaire conjoint sur « l'abus des ressources administratives pendant les processus électoraux : un défi majeur pour des élections démocratiques » (Tirana, 10-11 avril 2018)

La Commission de Venise a organisé conjointement avec l'Assemblée parlementaire du Conseil de l'Europe un séminaire régional qui regroupait des parlementaires de l'Albanie et de la Bosnie-Herzégovine ainsi qu'un panel d'experts internationaux. Les discussions ont porté notamment sur les abus de ressources à la fois matérielles et immatérielles, y compris le recours abusif à des employés publics, sur les principes fondamentaux en jeu et les moyens de prévenir ou de répondre à de tels abus, en particulier par l'amélioration du cadre juridique.

« Prévenir et combattre l'utilisation abusive des ressources administratives dans les processus électoraux » (Chişinău, 30 novembre 2018)

La Commission électorale centrale de la République de Moldova, la Division de l'assistance électorale de la DGII et la Commission de Venise ont organisé un atelier sur le thème « Prévenir et combattre l'utilisation abusive des ressources administratives dans les processus électoraux ».

3. VOTA, BASE DE DONNÉES ÉLECTORALE DE LA COMMISSION

La base de données VOTA a été créée en 2004 dans le cadre du programme conjoint de la Commission de Venise et de la Commission européenne sur « La démocratie par des élections libres et équitables ». Elle contient la législation électorale des États membres de la Commission de Venise et d'autres États participant aux travaux de cette dernière et elle propose une fonction de recherche ainsi qu'un thésaurus systématique. On y trouve les textes de loi pertinents d'une cinquantaine de pays ainsi que les avis de la Commission de Venise en matière électorale en anglais, en français et en espagnol (<https://vota.te.gob.mx/>). Cette base de données est gérée avec le Tribunal électoral du pouvoir judiciaire de la Fédération du Mexique (*Tribunal electoral del poder judicial de la Federación*, TEPJF), qui a offert un appui technique en incluant de nouvelles fonctions et en indexant et ajoutant des documents.

Suite à la révision complète de 2017, qui avait été effectuée grâce au soutien financier de l'Union européenne, la base de données a été encore plus modernisée et elle est constamment actualisée.

4. COOPERATION INTERNATIONALE

Voir le chapitre VI.3.

5. AUTRES CONFÉRENCES ET RÉUNIONS

La Commission de Venise a également participé aux conférences et aux réunions suivantes :

Commission européenne

- Bruxelles, 26 avril 2018 : Événement sur la participation démocratique et les questions électorales.
- Bruxelles, 15-16 octobre 2018 - Conférence de haut niveau sur « les ingérences électorales à l'ère numérique – renforcer la résilience face aux menaces électroniques »
- Bruxelles, 10-11 octobre 2018 - Conférence de haut niveau sur le futur de l'observation internationale des élections

Albanie

- Tirana, 23 janvier 2018 – Conférence sur le «Vote des citoyens albanais à l'étranger », organisée sous les auspices de l'Assemblée de l'Albanie, par le ministre d'Etat pour la diaspora avec le soutien de la mission de l'OSCE en Albanie
- Tirana, 6 juin 2018 – Atelier sur les « nouvelles technologies de vote », organisé par le Commission parlementaire ad hoc pour la réforme électorale avec le soutien de la mission de l'OSCE en Albanie
- Tirana, 27 juin 2018 – Atelier sur le « vote à l'étranger », organisé par le Commission parlementaire ad hoc pour la réforme électorale avec le soutien de la mission de l'OSCE en Albanie
- Tirana, 3 juillet 2018 – Atelier sur l'« administration des élections », organisé par le Commission parlementaire ad hoc pour la réforme électorale avec le soutien de l'OSCE/BIDDH
- Tirana, 4 juillet 2018 – Atelier sur le « rôle des médias dans les campagnes électorales », organisé par le Commission parlementaire ad hoc pour la réforme électorale avec le soutien de l'OSCE/BIDDH

Égypte

- Le Caire, 8-9 janvier 2018 - première conférence internationale de l'Union Arabe de l'Ordre Administratif, portant sur le traitement des litiges électoraux par le juge administratif
- Le Caire, 13-14 novembre 2018 – 2e Forum des organes d'administration des élections des États arabes, organisé par la Ligue des États arabes et les Nations Unies.

Géorgie

- Tbilissi, 26 juin 2018 - Conférence internationale régionale intitulée « L'argent en politique », organisée par la Cour des comptes de Géorgie, le Conseil de l'Europe, l'IFES, International IDEA, l'OSCE/BIDDH, Transparency International (TI-Georgia) et le Centre d'Europe de l'Est pour la démocratie multipartite (EECMD).

Kosovo

- Pristina, 4 octobre 2018 – Atelier de haut niveau intitulé « Financement des partis politiques », organisé par le Bureau de l'Union européenne au Kosovo/le Représentant spécial de l'UE et la Mission de l'OSCE au Kosovo.

Montenegro

- Cetinje, 8-9 November 2018 - Cetinje Parliamentary Forum, entitled "Election laws, participants and campaigns: is the voter in the spotlight?" The Venice Commission intervened in the two sessions, respectively on "Improvement of election laws and cooperation with international organisations" and "Impact of campaigns and financing of political actors on election integrity".

Roumanie

- Siniaïa, 5-6 mai 2018 - Conférence internationale sur les élections libres, les parlements et la construction de la nation

OSCE/BIDDH

- Vienne, 30 octobre 2018 : séminaire sur « Observation d'élections et campagnes électorales »

Ouzbékistan

- Boukhara, 16-17 novembre 2018 – Conférence internationale organisée dans le contexte de la réforme électorale, sur « L'amélioration de la législation électorale et les élections démocratiques : l'expérience de l'Ouzbékistan et la pratique internationale »

Assistance juridique aux missions d'observation de l'APCE

1. **Arménie** – Elections législatives anticipées – 9 décembre 2018
2. **Azerbaïdjan** – Election présidentielle anticipée – 11 avril 2018
3. **Bosnie-Herzégovine** – Elections générales – 7 octobre 2018
4. **Géorgie** – Election présidentielle, 1^{er} et 2^e tours – 28 octobre et 28 novembre 2018
5. **Monténégro** – Elections présidentielles – 15 avril 2018
6. **« L'ex-République yougoslave de Macédoine »** – Référendum, 30 septembre 2018
7. **Turquie** – Election présidentielle anticipée et élections législatives – 24 juin 2018

V. CO-OPERATION IN THE COUNCIL OF EUROPE NEIGHBOURHOOD AND OUTSIDE EUROPE¹²

1. MEDITERRANEAN BASIN

Country-specific activities

Egypt

10th symposium of the Union of Arab Constitutional Courts and Councils (UACCC, Cairo, 23 April 2018)

See Chapter III.

International conference “Voting in elections and referendums – between right and duty” (8 – 9 October 2018)

The Egyptian Council of State organised in collaboration with the Venice Commission of the Council of Europe and the Arab Union of Administrative Judiciary an international conference entitled “Voting in Elections and Referendums – between Right and Duty” in Cairo on 8–9 October 2018. This event gathered together judges and academia from Egypt, other countries from the region and European experts.

The participants discussed such issues as guarantees of voters’ participation in elections, measures to enhance participation in elections and issues related to compulsory voting and international standards in the electoral field.

The conference provided an excellent opportunity to compare the constitutional and legal practice and the analysis of the socio-political situation of countries from four different continents: an endeavour – that of extended comparative work - which the Venice Commission has been practicing for a long time with very satisfactory results. Exchanges on the phenomenon of reluctance to participate in voting and its causes showed that there were a considerable number of areas where specific actions could and should be taken.

The participants agreed that new technologies offered an alternative to the traditional means of political participation through political parties and elections. By encouraging discussion on topics close to the citizens’ interests, they stimulated and enabled individual and direct participation in the decision-making. New technologies may therefore reinforce political participation. As such, they should be positively viewed.

The participation of the Venice Commission was financed by the joint Council of Europe-European Union South Programme III.¹³

Jordan

First Bilateral Steering Committee Meeting with the Hashemite Kingdom of Jordan (Amman, 5 May 2018)

See Chapter III.

¹² Some activities in the field of constitutional justice are dealt with in Chapter III.

¹³ Most activities in Southern Mediterranean countries in 2018 were funded through the South Programme III “Ensuring sustainable democratic governance and human rights in the Southern Mediterranean”, a joint programme funded by the European Union and implemented by the Council of Europe.

International conference “Legal stability and the case for reversing precedent” (Amman, 4 December 2018)

The Venice Commission and the Constitutional Court of Jordan organised a conference on “Legal stability and the case for reversing precedent”. For more information please see chapter III.

Libya

Assistance to the working group on electoral legislation in Libya organized by United Nations Support Mission in Libya (UNSMIL)

In 2018 at the request of the EU Delegation to Libya, a Venice Commission expert, Mr Peter Wardle, was involved in the working group in charge of the preparation of the draft laws on referendum, parliamentary and presidential elections put in place by UNSMIL. Mr Wardle has participated in 7 meetings of the Working group organised between January and July 2018.

The substantial contribution of the Venice Commission’s expert to the process was highly praised by the EU Delegation, UNSMIL and representatives of Libya. Initial drafts of the three laws had been prepared with the direct involvement of Mr Wardle and later shared with the Libyan authorities.

In Autumn 2018 Mr Wardle advised the working group on such issues as election observation, accreditation mechanisms and training of national observers from NGOs.

Maroc

Coopération avec le Ministère de la Justice et des Libertés

À la demande du Ministère de la Justice et des Libertés, une délégation de la Commission de Venise a rencontré, le 18 septembre 2018, à Rabat, les autorités marocaines en vue de la préparation du projet de loi organique sur la question préjudicielle de constitutionnalité. La délégation était composée de membres de la Commission de Venise et de membres de Cours constitutionnelles de France et d'Italie. La délégation de la Commission de Venise a également rencontré, le 19 septembre 2018, les membres de la Cour constitutionnelle afin d'échanger des points de vue et des expériences nationales sur la question préjudicielle de constitutionnalité.

M. Mohamed Auajjar, Ministre de la Justice et des Libertés, a participé à la 116^e session plénière (11-12 octobre 2018) afin d'y présenter les priorités du Ministère et les moyens déployés dans la mise en œuvre des lois organiques relatives au Conseil Supérieur du Pouvoir Judiciaire (CSPJ) et au Statut des Magistrats pour lesquels la Commission, en coopération avec la Commission européenne pour l'efficacité de la justice (CEPEJ), avaient apporté leur expertise.

Coopération avec la Cour Constitutionnelle

A l'invitation de la Cour constitutionnelle, la Commission a participé à une Conférence internationale sur « L'accès à la justice constitutionnelle : « Les nouveaux enjeux du contrôle de constitutionnalité a posteriori », les 27-28 septembre 2018, à Marrakech. Pour plus d'information, voir le chapitre III.

Conseil Supérieur du Pouvoir Judiciaire

La Commission a contribué, en coopération avec la Commission européenne pour l'efficacité de la justice (CEPEJ), à l'organisation d'une réunion avec le Conseil Supérieur du pouvoir judiciaire du Maroc (CSPJ) sur le thème « Fonctionnement des conseils de justice, méthodes et outils stratégiques de travail », le 12 décembre 2018, à Rabat.

Cette réunion était la première rencontre entre le Conseil de l'Europe et le Conseil Supérieur du Pouvoir Judiciaire depuis l'établissement de ce dernier. Plusieurs conseils supérieurs de la magistrature y ont présenté leur expérience nationale.

Institution du Médiateur

La Commission a organisé, en coopération avec l'Association des Ombudsmans de la Méditerranée (AOM), les 28 et 29 novembre 2018, à Rabat, une session de formation pour les collaborateurs des institutions membres de l'AOM, sur « Les droits des personnes détenues dans le territoire national et de celles détenues à l'étranger : le rôle des institutions de médiateur. » Environ 20 collaborateurs de différentes institutions d'ombudsman ont discuté des standards internationaux et des meilleures pratiques en la matière.

Tunisia

Meeting between the Venice Commission President and the Minister of Foreign Affairs (14 November 2018)

On the side-lines of the 6th Intercultural Workshop on Democracy, the President of the Venice Commission, Mr Gianni Buquicchio, and the Deputy Secretary of the Commission, Ms Simona Granata-Menghini, held an exchange of views with the Minister of Foreign Affairs of Tunisia Mr Khemaies Jhinaoui.

They discussed the political situation of Tunisia and agreed on continued co-operation in order to fully implement the Constitution, in particular by proceeding with the setting up of the Constitutional Court and the independent constitutional bodies.

Avis sur le projet de loi organique relatif à l'organisation des partis politiques et à leur financement ([CDL-AD\(2018\)025](#)).

L'avis a été demandé par le Ministre de la Relation avec les Instances Constitutionnelles et la Société Civile et des Droits de l'Homme et adopté par la Commission en octobre 2018. Suite à la révolution de 2011, une nouvelle Constitution et une nouvelle législation sur les partis politiques ont été introduites qui reflétaient un esprit libéral et ont favorisé la création d'un grand nombre de partis politiques (actuellement il en existe plus de 200, dont 19 sont représentés au Parlement). Si ce développement n'est pas un problème en soi, il semble qu'un certain nombre de partis ont des problèmes de gouvernance ; il semble également y avoir un large consensus que la transparence du financement des partis doit être renforcée. Le projet de loi vise à améliorer la transparence des partis politiques en général et de leur financement en particulier. Les mesures prévues sont en principe en harmonie avec les normes internationales pertinentes, et le projet de loi est conforme au mandat constitutionnel de légiférer en la matière. Cela dit, quelques amendements sont recommandés pour assurer le bon équilibre entre la liberté d'association dont jouissent les partis politiques et leurs membres, d'une part, et les restrictions et le contrôle nécessaires, d'autre part.

En particulier, il est conseillé de faire référence, dans le projet de loi, à la liberté non seulement de constituer des partis politiques, mais aussi d'y adhérer et d'y exercer des activités, et d'ajouter le principe de proportionnalité et de nécessité dans une société démocratique par rapport aux restrictions permises de cette liberté; d'introduire de plus brefs délais pour statuer sur les demandes d'enregistrement des partis politiques, et sur les recours contre les refus d'enregistrement ; de garantir que l'identité des donateurs ne soit pas portée à la connaissance du public, mais uniquement de l'organe de contrôle, en cas de petits dons clairement définis ; de faire en sorte que la modalité de calcul de la prime et le nombre de voix à obtenir pour l'exigibilité du financement public annuel par les partis politiques non représentés au Parlement soient définis dans la loi elle-même ; de renforcer le dispositif de contrôle financier des partis politiques ; et de réviser le dispositif de sanctions, notamment de limiter encore plus le champ d'application de la dissolution de partis politiques et de repenser les compétences pour imposer des sanctions aux partis.

Regional cooperation

Campus UniDem Med

In 2018 the Venice Commission continued to support the process of the modernization of the public administration in the southern Mediterranean in the framework of the UniDem Med campus. The Commission organised in co-operation with the Ministry of the Reform of the Administration and the Civil Service of Morocco the 7th UniDem Med in Rabat (23-26 April 2018) on the theme "Improving the relations between the administration and the citizens: a democratic imperative". The 8th UniDem Med took place in Tunis (24-24 September 2018) in co-operation with the Presidency of the Government of Tunisia entitled "Transformation and Innovation in the Senior Civil Service: challenges and opportunities". The two seminars in 2018 enabled the strengthening of the legal capacities of more than 100 senior servants from the southern Mediterranean namely Algeria, Jordan, Lebanon, Morocco, Mauritania, Palestine* and Tunisia who have exchanged best practices in the field of innovation in the civil service on a peer-to-peer level with their European counterparts against a backdrop of respect for rule of law and basic civil service values and principles. The UniDem Med project is sustained by the work of the seven national coordinators who help develop the project and achieve its strategic objectives. The annual co-ordinators' meeting took place in Paris on 5 February 2018. The meeting allowed for discussing national priorities, the venues and the themes of the 2018 seminars and ways to streamline its outreach activities.

The two seminars and co-ordinators' meeting were funded by the joint Council of Europe-European Union program "Ensuring Sustainable Democratic Governance and Human Rights in the Southern Mediterranean", South Programme III.

6th Intercultural workshop on democracy (Tunis, 14 – 15 November 2018)

The Venice Commission, in co-operation with the Ministry of Foreign Affairs of Tunisia, organised the 6th Intercultural Workshop on Democracy on "The role and place of independent bodies in a democratic state".

This regional event was held in Tunis from 13 to 14 November 2018 bringing together leading European experts and senior officials from independent bodies of Tunisia and other countries of the Southern Mediterranean.

The debates focused on themes such as: relations of independent bodies with the executive, legislative and judicial powers, composition, technical skills, accreditation and funding of bodies etc.

The workshop was funded by the Joint Council of Europe-European Union Programme "Ensuring the Sustainability of Democratic Governance and Human Rights in the Southern Mediterranean", South Program III.

2. LATIN AMERICA

Bolivia

Conference on "Constitutional justice and the principle of proportionality" (Sucre, 7 December 2018)

See Chapter III.

Mexico

International Congress “The guarantees of democratic processes: international standards and constitutional principles in a comparative perspective” (Mexico, 29 – 30 November 2018)

The Federal Electoral Tribunal of Mexico and the Venice Commission organised an international Congress “The guarantees of democratic processes: international standards and constitutional principles in a comparative perspective”. This exchange of views included representatives of different authorities, national NGOs, academia and international and regional organisations. Among other issues the participants discussed the role of international standards in strengthening electoral integrity at the local level; the main threats that the rule of law faces in modern democracies; rule of law and equality and national cultural and political traditions and the rule of law.

Meeting of the Sub-Commission on Latin America (Mexico, 29 November 2018)

The Sub-Commission was informed of the activities which the Organization of American States – OAS – had carried out to make known the Commission’s opinion “on the calling of elections to a National Constituent Assembly in Venezuela” and its report “On term limits for Presidents”.¹⁴ Both texts had been requested and widely circulated by the OAS and referred to in Latin America. Indeed, the OAS has started a very fruitful co-operation with the Commission. Its requests for opinions and studies had made it possible for the Commission to provide in 2018 a useful input in the discussion of the most topical constitutional issues on the Latin American continent.

The Sub-Commission also discussed and adopted the second and third parts of the report on term limits of MPs, locally elected representatives, governors and mayors. This report distinguished between the situation of elected representatives sitting on collegiate bodies – MPs, locally elected representatives – and that of single-person executive officials – Governors, mayors. For the first category, limitations on mandates do not appear necessary as there is not a high risk of concentration of powers and of manipulation of votes or undue influence in view of re-election. In balance, having examined the arguments in favour and against, and having noted the very few examples in national experience, the report concluded that term-limits for MPs and locally elected representatives are not recommended. Directly elected executive officials, however, are closer to the situation of Presidents in presidential regimes, and for this reason term-limits could be seen as more justified. Indirectly elected mayors, instead, are responsible before and require the continued confidence of the municipal councils and, as such, are in a similar situation as Prime Ministers in parliamentary regimes. Term-limits therefore did not seem appropriate. This draft report would be submitted to the Plenary in March 2019.

Progress in the preparation of the Venice Principles was presented and the excellent co-operation with the Federation of Ibero-American Ombudsmen was stressed. After the adoption of the Venice Principles foreseen for March 2019, the Secretariat intended to propose some joint activities with the Federation, thanks in particular to a voluntary contribution received from the European Commission.

In 2018, the Commission continued its contacts with other regional organisations in the Americas, notably with the OAS, UNDP and IFES.

3. CENTRAL ASIA

In 2018 **Kazakhstan** and **Kyrgyzstan**, as members of the Venice Commission, benefited from fully-fledged co-operation such as participation in multilateral activities, preparation of opinions

¹⁴ Voir Chapitre IV.

and organisation of bilateral meetings. Co-operation with **Uzbekistan** included the preparation in co-operation with the OSCE of a joint opinion on electoral legislation and participation of representatives of the Commission in several activities in the field of elections and human rights.

Moreover, the Venice Commission is implementing a joint project financed by the European Union and the Council of Europe “Support to strengthening democracy through electoral reform in the Kyrgyz Republic” initially planned from January 2017 till 31 December 2018 and prolonged till 30 April 2019.

Country-specific activities

Kazakhstan

In 2018 the Venice Commission adopted two opinions on the draft Code of administrative procedure opinion on the draft Administrative Procedure and Justice Code and on the Concept Paper on the reform of the High Judicial Council (see Chapter on Democratic institutions and fundamental rights).

Administrative Procedure and Justice Code (CDL-AD(2018)020)

By letter dated 29 June 2018, Mr Beketayev, Minister of Justice of the Republic of Kazakhstan, requested the Venice Commission’s opinion on the draft Administrative Procedure Code. The rapporteurs of the Commission visited Astana on 28 – 29 August 2018 to exchange views with the authorities. For more information on this opinion, please refer to Chapter II.

Draft concept paper on the reform of the High Judicial Council of Kazakhstan (CDL-AD(2018)032)

At the request of the authorities of the Republic of Kazakhstan, a delegation of the Venice Commission visited Astana on 15 and 16 November 2018 with a view of preparing an opinion on the draft concept paper on the reform of the High Judicial Council of Kazakhstan. For more information on this opinion, please refer to Chapter II.

Kyrgyzstan

Joint European Union - Council of Europe Project on “Support to strengthening democracy through electoral reform in the Kyrgyz Republic

In 2018, the Venice Commission continued the implementation of the project “Support to strengthening democracy through electoral reform in the Kyrgyz Republic” which had been launched in 2017. The main areas of project activities are:

- Support the authorities of the Kyrgyz Republic in the elaboration of a comprehensive electoral reform strategy
- Capacity building of the State Registration Service and the Central Election Commission, the main beneficiaries of the project
- Support the authorities in improving the system of electoral dispute resolution
- Support relevant actors to enhance data protection mechanisms
- Capacity building of electoral commissions, political parties, relevant actors and other participants in the electoral process.

In 2018 a number of activities were held in the framework of the aforementioned project.

By mutual agreement between the Venice Commission and the Delegation of the European Union in Kyrgyzstan the project has been extended until April 2019.

Workshop on cybersecurity in elections (Bishkek, 3 April 2018)

Representatives of the State Registration Service (SRS), State Security Council as well as the Civil Society of the Kyrgyz Republic learnt the founding principles of the Budapest Convention, as well as the implications of cybersecurity during the electoral processes.

Study visit on establishing independent supervisory authority for data protection, (Malta, 5-6 April 2018)

A study visit to Malta for representatives of the SRS, State Security Council and the civil society was organised to learn the process and history of establishing the Data Protection Commissioner's office and ensuring its independence. The participants also visited the Electoral office of Malta and were informed about the setting up and functioning of the Digital Malta Strategy. They also had an opportunity to visit the Data Centre and to receive detailed explanations on how it works.

Meetings of the Venice Commission expert with relevant judges of Supreme, Mezhrayonny and Pervomaysky courts to discuss electoral complaints (Bishkek, 23-24 April 2018)

A specialised questionnaire on revealing existing disadvantages of the EDR system in the Kyrgyz Republic was developed and an expert of the Commission was deployed to Bishkek to hold meetings/interviews with a number of judges from Supreme, Mezhrayonny and Pervomaysky courts to discuss the matter in question. The results of the interviews with judges were summarised into a report.

On the basis of these exchanges a comprehensive analysis was developed taking into account case materials from 2011 Presidential, 2015 Parliamentary and 2017 Presidential elections, which were provided to the Venice Commission by the courts.

Conference on freedom of expression - speech and press: further ways to develop the media legislation (Bishkek, 26 May 2018)

A Republic-wide conference of journalists of the Kyrgyz Republic was organised in partnership with the Media Development Centre. The conference targeted all the regions of the Kyrgyz Republic and focused on such topics as freedom of expression, media monitoring practices during elections, media regulation, etc.

Round Table on independent supervisory authority on data protection (Bishkek, 27 June 2018)

This discussion was organised together with the OSCE office in Bishkek on ways of establishing an independent supervisory authority for data protection. Two experts of the Venice Commission from Georgia and Malta participated in this round-table and presented relevant experience of their own countries.

Round Table on cybercrime and cybersecurity (Bishkek, 7 December 2018)

Representatives of the Government of the Kyrgyz Republic including the State Security Council, the State Registration Service (SRS), the Ministry of the Interior, the General Prosecutor's office and other national institutions, together with civil society representatives were provided with an opportunity to gain knowledge and share experiences about existing international standards in the field of cybersecurity and cybercrime. The Round Table served as a forum for sharing best practices from other countries in this field.

Round Table on the case-law of national courts on electoral disputes (Bishkek, 14 December 2018)

The Round Table was a continuation of the work already carried out in the field of electoral dispute resolution within the project. After a thorough consultation with the judges, the Venice Commission's expert drew a comprehensive analysis of judicial case materials of election related complaints. The analysis also included the results of the interviews previously held with the judges, as well as a set of recommendations on how to further improve the legislation in the field. The Round Table participants further discussed the overview and exchanged views on the issue in order to finalise the work started during the summer 2018.

Uzbekistan

Draft election code ([CDL-AD\(2018\)027](#))

At the request of the Central Election Commission of the Republic of Uzbekistan, the Venice Commission and the OSCE/ODIHR issued an opinion in October 2018. The opinion underlined with satisfaction that the draft election code unified five different electoral laws, unifying in this respect a sparse electoral legislation, responding at the same time to a number of previous recommendations from international experts. However the opinion raised concerns on a number of unaddressed long-standing recommendations, in particular:

- To review the overall campaign finance regulations in order to ensure transparency and accountability of the use of public money and administrative resources;
- To avoid undue restrictions on voting rights based on incapacitation, on-going criminal proceedings and conviction;
- To review the length of residency requirement, in respect of candidacy rights;
- To review procedures for the appointment of lower-level commissions to better safeguard their independence; and
- To ensure transparency of tabulation and publication of election results.

At the October 2018 plenary session of the Venice Commission and at the occasion of the international conference held in Bukhara, Uzbekistan, on 16-17 November 2018, the Uzbek representatives expressed their readiness to address several of these recommendations.

4. OTHER CONFERENCES AND MEETINGS

The Commission participated in the following other activities in 2018:

Dominican Republic

- Santo Domingo, 7-9 November 2018 – Representatives of the Venice Commission participated in the XIIIth Inter-American Meeting of Electoral Authorities, organised by the Department of Electoral Cooperation and Observation (DECO) of the Organization of American States (OAS).

Egypt

- Le Caire, 8-9 janvier 2018 - première conférence internationale de l'Union Arabe de l'Ordre Administratif, portant sur le traitement des litiges électoraux par le juge administratif¹⁵ ;
- Le Caire, 13-14 novembre 2018 – 2e Forum des organes d'administration des élections des États arabes, organisé par la Ligue des États arabes et les Nations Unies.

¹⁵ Voir Chapitre IV

Kazakhstan

- Astana, 28-29 August 2018 - The Venice Commission participated in the International Conference «A Constitution: the Embodiment of the Values of the Rule of Law, Civil Society and the modern State», dedicated to the Day of the Constitution of the Republic of Kazakhstan and the meeting of the Conference of Constitutional Control Organs of the Countries of New Democracy (CCCOCND).

Mexico

- Cancun, 3 – 5 December 2018 – The Venice Commission participated in the 2nd Plenary Assembly of the Global Network on Electoral Justice, organised by the Electoral Tribunal of the Federal Judiciary of Mexico (TEPJF).

Morocco

- Rabat, 5 juillet 2018 - La Commission de Venise a participé à une « Conférence régionale sur les femmes en politique : comment progresser vers l'égalité ? », organisée par l'Assemblée parlementaire du Conseil de l'Europe (APCE) et le Parlement marocain.

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 plenary sessions in 2018. The following Ambassadors, Permanent Representatives to the Council of Europe, attended the sessions (in order of attendance):

- Ambassador Corina CĂLUGĂRU, Republic of Moldova
- Ambassador Gilles HEYVAERT, Belgium
- Ambassador João Maria CABRAL, Portugal
- Ambassador Rémi MORTIER, Monaco
- Ambassador Ivars PUNDURS, Latvia
- Ambassador Răzvan RUSU, Romania
- Ambassador Irakli GIVASHVILI, Georgia
- Ambassador Stephan MÜLLER, Luxembourg
- Ambassador Katrin KIVI, Chair of GR-EXT, Estonia
- Ambassador Marek EŠTOK, Slovak Republic
- Ambassador Elisabeth WALAAS, Norway

On 30 May 2018 the President of the Commission presented the Venice Commission's 2017 Annual Report of Activities to the Committee of Ministers.

On 16 October 2018 the President of the Venice Commission Gianni Buquicchio spoke at the meeting of the External Relations Committee of the Committee of Ministers (GR-EXT) on "the Role of the Venice Commission in the Policy of the Council of Europe towards Neighbouring Regions" at the Council of Europe, in Strasbourg.

At its October 2017 session the Commission adopted the elements for the Committee of Ministers' reply to Parliamentary Assembly Recommendation 2110(2017) on "The implementation of judgments of the European Court of Human Rights".¹⁶ In its comments the Commission highlighted its great attachment to supporting and strengthening the execution of the judgments of the European Court of Human Rights and argued that it had the capacity to contribute to preparing general measures in compliance with international standards and to assist the member States in bringing their existing legislation which generated violations of the ECHR into conformity with the latter and in ensuring compliance of their draft legislation with the ECHR before being adopted, thus avoiding further violations. The Commission was ready to play a more active role in this respect.

The Chair of GR-EXT and Permanent Representative of Estonia to the Council of Europe, Ambassador Katrin Kivi, participated in the December 2018 plenary session of the Commission. She referred to the fruitful exchange of views with the Commission's President at the GR-EXT meeting in October 2018, on the role of the Venice Commission in the Council of Europe's policy towards neighbouring regions, especially in Central Asia and the Mediterranean countries. It was stressed that the Committee of Ministers in its work with neighbouring countries relied on the Venice Commission's *acquis*.

Parliamentary Assembly

In 2018 the Commission and the Assembly continued their close co-operation.

¹⁶ CDL-AD(2017)017

Opinions requested by the Assembly

In 2018, at the request of the Parliamentary Assembly, the Venice Commission adopted the following opinions:

- **Romania** - Joint Opinion on draft law No. 140/2017 on amending Governmental Ordinance No. 26/2000 on Associations and Foundations - CDL-AD(2018)004;
- **Georgia** - Constitutional amendments as adopted at the second and third hearings in December 2017 - CDL-AD(2018)005;
- **Ukraine** - Joint Opinion on Draft Law No. 6674 "On Introducing Changes to Some Legislative Acts to Ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance" and on Draft Law No. 6675 "On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance" - CDL-AD(2018)006;
- **Republic of Moldova** - Joint Opinion on the law for amending and completing certain legislative acts (Electoral system for the election of Parliament) - CDL-AD(2018)008;
- **Hungary** - Joint Opinion on the Provisions of the so-called "Stop Soros" draft Legislative Package which directly affect NGOs (in particular Draft Article 353A of the Criminal Code on Facilitating Illegal Migration) - CDL-AD(2018)013;
- **Romania** - Opinion on draft amendments to the Criminal Code and the Criminal Procedure Code - CDL-AD(2018)021;
- **Malta** - Opinion on Constitutional arrangements and separation of powers - CDL-AD(2018)028;
- **Georgia** - Opinion on the provisions on the Prosecutorial Council in the draft Organic Law on the Prosecutor's Office and on the provisions on the High Council of Justice in the existing Organic Law on General Courts - CDL-AD(2018)029;
- **Turkey** - Joint Opinion of the Venice Commission and ODIHR on Amendments to the electoral legislation and related "harmonisation laws" adopted in March and April 2018 - CDL-AD(2018)031;
- **Hungary** - Joint Opinion on Section 253 on the special immigration tax of Act XLI of 20 July 2018 amending certain tax laws and other related laws and on the immigration tax - CDL-AD(2018)035.

On 29 May 2018, the President and the Secretary of the Commission took part in an exchange of views organised in Paris by the PACE Monitoring Committee on the **judiciary in Poland** with the participation of representatives of the Ministry of Justice, National Council of the Judiciary and civil society organisations active in Poland. On this occasion they presented the Commission's opinions on the matter, some of which had been requested by PACE.¹⁷

Promoting European standards together

In 2018 the Parliamentary Assembly continued to call on the Venice Commission's expertise by means of referring to the Commission's texts and by inviting the Commission to share its expertise in the framework of its various activities. At the same time, Ms Stella Kyriakides, former President of the Parliamentary Assembly, and Mr Sergiy Vlasenko, Member of the Committee on Legal Affairs and Human Rights, regularly represented the PACE at the plenary sessions of the Commission in 2018.

References to the Commission's texts

In the report "**Regulating foreign funding of Islam in Europe** in order to prevent radicalisation and Islamophobia" adopted on 17 September 2018, the Assembly referred to

¹⁷ CDL-AD(2016)012, CDL-AD(2017)028, CDL-AD(2017)031

the Commission's Joint Opinion on the draft law on the insertion of amendments on freedom of conscience and religious organisations in Ukraine¹⁸ and the Guidelines for legislative reviews of laws affecting religion or belief.¹⁹

The Assembly's report on "New restrictions on **NGO activities** in Council of Europe member States" contains numerous references to the Commission's relevant opinions and reports.²⁰ PACE Recommendation 2134/2018 on the same subject contains an intention to develop guidelines on foreign funding of NGOs in the member States, which would be based on the Commission's report on the subject, to be adopted in 2019.

On 4 December 2018 the PACE Committee on Culture, Science, Education and Media adopted a report on "**Media freedom as a condition for democratic elections**" which contains references to the Commission's Code of Good Practice in Electoral Matters and the Guidelines on Media Analysis during Election Observation Missions.

In PACE Report 14620 of 21 September 2018 entitled "Private and family life: achieving **equality** regardless of sexual orientation", the Committee on Equality and Non-Discrimination, refers to the Commission's Opinion on the draft revised constitution of Georgia.²¹

In addition, the Parliamentary Assembly referred to the Venice Commission's opinions in its work with Albania, Armenia, Russia (Chechen Republic), Iceland, Libya, Republic of Moldova, North Macedonia, Morocco, Turkey and Ukraine.²²

Participation in PACE activities

On 9 October 2018 a representative of the Venice Commission participated in the hearing of the PACE Legal Affairs and Human Rights Committee on the **implementation of the judgments of the European Court of Human Rights**. He explained how the Venice Commission could help States Parties to implement judgments of the Strasbourg Court.

On 25 June 2018 the Deputy Secretary of the Commission, Simona Granata-Menghini participated in a hearing of the PACE Political affairs Committee entitled "Democracy hacked" where she talked about **security in elections**, a topic which had been discussed at the 15th EMB conference earlier in the year.

The President and the Secretary of the Commission participated in an international parliamentary conference entitled "Building **democratic security in the Mediterranean**: common challenges, shared responsibility", organised by the Assembly on 6 November 2018 in Dubrovnik, Croatia. They shared with the participants the Commission's experience in the region.

The 1st Vice-President of the Venice Commission participated in the Regional Conference on "Women in politics: how to progress towards **equality**?" organised by the Parliamentary Assembly of the Council of Europe (PACE) at the invitation of the Parliament of the Kingdom of Morocco, on 5 July 2018 in Rabat.

On 25 January 2018 in Strasbourg at the Council of Europe Mr Jan Helgesen, President of the Scientific Council of the Venice Commission, exchanged views with PACE's Committee on Legal Affairs and Human Rights on "**Ombudsman Institutions** in Europe – the need for a set of common standards" and informed the MPs on the preparation by the Venice

¹⁸ CDL-AD(2006)030

¹⁹ CDL-AD(2004)028

²⁰ CDL-AD(2018)004, CDL-AD(2018)006, CDL-AD(2017)015, CDL-AD(2016)020, CDL-AD(2016)037, CDL-AD(2014)025, CDL-AD(2014)043 and "Joint with OSCE/ODIHR guidelines on freedom of association" of 2014, CDL-AD(2011)035,

²¹ CDL-AD(2017)013

²² For more information please refer to the page "References" of the website of the Commission www.venice.coe.

Commission of the so-called “Venice Principles” – a standard setting document in the field of the protection and promotion of the Ombudsman Institution.

Cooperation in the field of elections

On 24 January 2018 during the PACE winter session held in Strasbourg, the President of the Venice Commission, Mr Gianni Buquicchio spoke to the PACE Committee on Political affairs and Democracy on “A commitment to introduce rules to ensure **fair referendums** in Council of Europe member States”. A member of the Commission presented the Venice Commission’s relevant reference texts before the Committee on Legal Affairs and Democracy of the Assembly at its meeting on “Updating guidelines to ensure fair referendums in Council of Europe member States” on 10 October 2018 at the Council of Europe, Strasbourg.

The Venice Commission and the Parliamentary Assembly, in co-operation with the Congress of Local and Regional Authorities organised a regional conference on “The misuse of administrative resources during electoral processes: a major challenge for democratic elections” on 10 – 11 April 2018 in Tirana.

Council for Democratic Elections

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. The relevant members of the Council for Democratic Elections in 2018 were as follows:

Members

- Mr Corneliu Mugurel COZMANCIUC, Committee on Political Affairs and Democracy
- Lord Richard BALFE, Committee on Legal Affairs and Human Rights
- Mr Tiny KOX, Monitoring Committee

Substitute Members

- Lord George FOULKES, Committee on Political Affairs and Democracy
- Ms Eka BESELIA, Committee on Legal Affairs and Human Rights
- Mr Aleksander POCIEJ, Monitoring Committee

Legal assistance to election observation

In accordance with the co-operation agreement concluded between the Venice Commission and the Parliamentary Assembly, in 2018 representatives of the Venice Commission ensured legal assistance to the Parliamentary Assembly delegations observing early parliamentary elections in **Armenia**, general elections in **Bosnia and Herzegovina**, early presidential and parliamentary elections in **Turkey** and the presidential elections in **Azerbaijan, Georgia and Montenegro** as well as the consultative referendum related to the possible bilateral agreement with Greece in “**the former Yugoslav Republic of Macedonia**”²³.

Congress of Local and Regional Authorities of the Council of Europe

Following Congress resolution 420 and the request from the Secretary General of the Congress of 7 November 2017, in 2018 the Commission started the preparation of the study on the compatibility of local recall referendum aimed at cutting short the term of office of a local elected representative with the international standards and best practice (“Recall of mayors”). This study will be adopted in 2019.

²³ Designation internationally used at the time of the referendum.

On 23 March 2018, the Venice Commission took part in the debate on “Regional referendum, a tool for democracy: challenges and risks” at the Chamber of Regions of the Congress of Local and Regional Authorities of the Council of Europe.

On 28 March 2018, the Deputy Secretary of the Commission addressed the 34th Session of the Congress – Chamber of Regions on the topic of the “Regional referendum, a tool for democracy: challenges and risks”.

The Congress also continued to participate in the Council for Democratic Elections (CDE). The relevant Congress members of the Council in 2018 were as follows:

Members

- Mr Stewart DICKSON, Chamber of Regions
- Mr Jos WIENEN, Chamber of Local Authorities

Substitute Members

- Ms Dusica DAVIDOVIC, Serbia, Chamber of Regions
- Mr Luc MARTENS, Belgium, Chamber of Local Authorities

Mr Leen VERBEEK, Chair of the Congress Monitoring Committee and Ms Tania GROPPi, Congress’ Advisor on Constitutional Matters, participated in the plenary sessions of the Commission in 2018.

European Court of Human Rights

In order to interpret the exact scope of the rights and freedoms guaranteed by the European Convention on Human Rights and to support its reasoning, the European Court of Human Rights (ECtHR) makes use, *inter alia*, of the Venice Commission’s work, by referring to the norms emanating from the Commission’s documents. In 2018 the European Court of Human Rights referred to the Venice Commission’s documents in more than 20 judgments.

The Report on the Relationship between Freedom of Expression and **Freedom of Religion**: the Issue of Regulation and Prosecution of Blasphemy, Religious Insult and Incitement to Religious Hatred²⁴ was mentioned in four of the Court’s decisions/judgements:

- [*Sekmadienis Ltd. v. Lithuania*](#) (30 January 2018)
- [*Ibrahim Ibragimov and others v. Russia*](#) (28 August 2018)
- [*E.S. v. Austria*](#) (25 October 2018)
- [*Mariya Alekhina and others v. Russia*](#) (3 December 2018)

In [*Bektashi community and others v. “the former Yugoslav Republic of Macedonia”*](#)²⁵ (12 April 2018) the Court mentions the Draft Opinion on the draft law on the legal status of a church, religious community and a religious group of “the former Yugoslav Republic of Macedonia”²⁶ (see footnote 25).

The judgment [*Dinçer v. Turkey*](#) (16 January 2018) contains references to the Compilation of Venice Commission Opinions concerning **Freedom of Assembly**²⁷ and the Joint OSCE/ODIHR – Venice Commission Guidelines on the same subject.²⁸ The Joint OSCE/ODIHR and Venice Commission Guidelines on **Freedom of Association**²⁹ were referred to in [*Navalnyy v. Russia*](#) (15 November 2018). The Opinion on the compatibility with human rights standards of the legislation on non-governmental organisations of the Republic

²⁴ CDL-AD(2008)026

²⁵ Designation used at the time of the adoption of the text.

²⁶ CDL(2007)019

²⁷ CDL-PI(2014)003

²⁸ CDL-AD(2010)020

²⁹ CDL-AD(2014)046

of Azerbaijan³⁰ was cited in [Mammadli v. Azerbaijan](#) (19 April 2018). The Opinion on the Federal Law on **Combating Extremist Activity** in the Russian Federation³¹ in two judgments [Ibragim Ibragimov and others v. Russia](#) (28 August 2018) and [Mariya Alekhina and others v. Russia](#) (3 December 2018).

The Opinion on the International Legal Obligations of Council of Europe Member States in Respect of **Secret Detention Facilities and Inter-State Transport of Prisoners**³² was cited by the Court in [Al Nashiri v. Romania](#) (31 May 2018) and [Abu Zubaydah v. Lithuania](#) (31 May 2018). The Report on the **Democratic Oversight** of Signals Intelligence Agencies³³ was cited in [Centrum För Rättvisa v. Sweden](#) (19 June 2018) and in [Big brother watch and others v. the United Kingdom](#) (13 September 2018). The Court referred to the Opinion on “Video surveillance by private operators in the public and private spheres and by public authorities in the private sphere and human rights protection”³⁴ in [López Ribalda and others v. Spain](#) (9 January 2018).

In [G.I.E.M. S.R.L. and others v. Italy](#) (28 June 2018) it referred to the Opinion on the Implementation of the Judgments of the European Court of Human Rights.³⁵ In [Ramos Nunes De Carvalho e Sá v. Portugal](#) (6 November 2018) the Court cited the Report on **judicial appointments**³⁶ and the Opinion on the Laws on the Disciplinary Liability and Evaluation of Judges of “the former Yugoslav Republic of Macedonia”³⁷ (see footnote 25). In [Thiam v. France](#) (18 October 2018) the Compilation of Venice Commission Opinions and Reports concerning Courts and Judges³⁸ and in [Denisov v. Ukraine](#) (25 September 2018) - the Report on the Independence of the Judicial System, Part I: The Independence of Judges³⁹ were mentioned. In [J.B. and others v. Hungary](#) the Court referred to Opinions CDL-AD(2011)016 and CDL-AD(2012)020 on measures concerning the Hungarian judiciary.

In [Berlusconi v. Italy](#) [GC] (27 November 2018) the Court referred to the Report on **exclusion of offenders from Parliament**.⁴⁰ The judgment [Cernea v. Romania](#) (27 May 2018) referred to the **Code of Good Practice in Electoral Matters** (CDL-AD(2002)23rev). Two Commission’s opinions on Turkey were mentioned in the judgment [Selahattin Demirtas v. Turkey \(No. 2\)](#) (20 November 2018):

- Opinion on the Suspension of the Second Paragraph of Article 83 of the Constitution (Parliamentary Inviolability);⁴¹
- Opinion on the Amendments to the Constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a National Referendum on 16 April 2017.⁴²

Reference to the Opinion on the Draft Amendments of February 2009 to the **Criminal Code** of Armenia (CDL-AD(2009)009) can be found in [Mushegh Saghatelyan v. Armenia](#) (20 September 2018). The Opinion on Articles 216, 299, 301 and 314 of the Penal Code of Turkey (CDL-AD(2016)002) was cited in [Imret v. Turkey](#) (No. 2) (10 July 2018) and in [Bakir and others v. Turkey](#) (10 July 2018).

³⁰ CDL-AD(2011)035

³¹ CDL-AD(2012)016

³² CDL-AD(2006)009

³³ CDL-AD(2015)011

³⁴ CDL-AD(2007)027

³⁵ CDL-AD (2002)034

³⁶ CDL-AD(2007)028

³⁷ CDL-AD(2015)042

³⁸ CDL-PI(2015)001

³⁹ CDL-AD(2010)004

⁴⁰ CDL-AD(2015)036cor

⁴¹ CDL-AD(2016)027

⁴² CDL-AD(2017)005

Commissioner for Human Rights

The work of the two institutions is complementary: based on the expertise of its members, the Venice Commission can provide an in-depth analysis while, on his/her side, the Commissioner analyses the broader context and reacts in a quick and flexible manner to emerging threats.

In 2018, during her visit to **Romania** from 12 to 16 November regarding the reform of the judicial system in Romania, Commissioner Dunja Mijatović underlined the importance of maintaining the independence of the judiciary and urged the authorities to give effect to the recommendations of the Venice Commission and GRECO and to carry out the reform in compliance with Romania's international human rights obligations.

On 14 December 2018, the Commissioner issued a statement calling on the President of **Hungary** to return to Parliament the legislative package on administrative courts to enable its fully informed review. She expressed concern at the strong powers the reform of the judiciary conferred on the Minister of Justice in the future administrative court system, stressing that this raised issues about the independence of the judiciary. The Commissioner also noted that it was regrettable that the Hungarian government and the Parliament had not waited for the Venice Commission to issue its Opinion on the legislation in question.

The opinion on the duties, competences and functioning of the **criminal peace judgeships** of Turkey⁴³ was referred to by the Commissioner in the third party intervention under Article 36, paragraph 3, of the European Convention on Human Rights. Application No. 43564/17 – *María del Mar Caamaño Valle v. Spain*⁴⁴: with regard to the system of horizontal appeals among judges of the peace, was criticised by her predecessor and by the Venice Commission in the above-mentioned opinion.

In addition, as part of the preparation of the **Venice Principles** on the Ombudsman Institution, the Commission consulted with the office of the Council of Europe Commissioner for Human Rights. Her representatives submitted their comments on the Venice Principles and participated in the meeting of international stakeholders, held in Paris on 31 October 2018.

Other Council of Europe organs

Gender Equality Commission

The Commission was represented at the meeting on the Council of Europe Gender Mainstreaming Team (GMT) held on 15 October 2018 in Strasbourg, with a view to informing the members of the team of recent and on-going gender equality and gender mainstreaming activities of the Venice Commission and to contributing to the Council of Europe Gender Equality Strategy 2018-2023. The participants were informed about a mini-conference on gender equality and discrimination held on the occasion of the Venice Commission's Joint Council for Constitutional Justice meeting, organised in Lausanne on 14 June 2018. Also, the Venice Commission adopted a template for joint opinions which includes gender equality aspects. The Commission's study on gender equality in constitutions has been put on hold due to the budgetary situation.

On 3 and 4 May 2018 in Copenhagen the 1st Vice President of the Venice Commission, Ms Herdis Kjerulf Thorgeirsdottir participated in a conference organised on the occasion of the launch of the Council of Europe Gender Equality Strategy 2018-2023. On 15 October 2018, the Chair and Vice-Chair of the Venice Commission's Sub Commission on Gender Equality participated by videoconference in a training session on gender mainstreaming, organised by the gender equality division of the Council of Europe.

⁴³ CDL-AD(2017)004

⁴⁴ Cf. [CommDH\(2019\)16](#)

Children's Rights Division

On 3 July 2018 the Commission, as the author of the 2014 Report on the Protection of Children's Rights,⁴⁵ was represented at a meeting of the Council of Europe inter-secretariat task force on the rights of the child.

Council of Europe Development Bank

The Governor of the Bank Mr Rolf Wenzel attended December 2018 plenary session of the Commission. On that occasion he informed the Commission of the Bank's activities during 2018, concerning migration and the refugee crisis over the past years. The Governor stressed that in this respect, the Venice Commission's work was key, as it helped to establish transparent and independent judiciaries which were indispensable in dealing with the crisis in a democratic manner.

Commission européenne pour l'efficacité de la justice (CEPEJ)

La coopération avec la CEPEJ s'est poursuivie dans le cadre des lois organiques relatives à l'organisation judiciaire au Maroc. La Commission a contribué, en coopération avec la Commission européenne pour l'efficacité de la justice (CEPEJ), à l'organisation d'une réunion avec le Conseil Supérieur du pouvoir judiciaire du Maroc (CSPJ) sur le thème «Fonctionnement des conseils de justice, méthodes et outils stratégiques de travail», le 12 décembre 2018, à Rabat.

Consultative Council of European Judges (CCJE)

The Venice Commission, together with GRECO and the Consultative Council of European Judges (CCJE) co-organised a Council of Europe panel entitled "Transparency and how to demystify the work of courts" on the occasion of the Launch of the UN Global Judicial Integrity Network organised on 6 April 2018 in Vienna.

Group of States against Corruption (GRECO)

The Venice Commission and GRECO, both being based on enlarged agreements and giving advice to member states on core issues of the Council of Europe, in 2018 exemplified the synergies between both bodies in mutual references to relevant Commission's opinions and GRECO evaluation reports. In addition, the Venice Commission, together with GRECO and the Consultative Council of European Judges (CCJE) co-organised a Council of Europe panel entitled "Transparency and how to demystify the work of courts" on the occasion of the Launch of the UN Global Judicial Integrity Network organised on 6 April 2018 in Vienna.

North South Centre

On 5 April 2018 the Deputy Secretary of the Commission participated in the 1st meeting of the working group of the pole of experts of the North South Centre on the protection and promotion of women's rights.

Steering Committee for Human Rights

On 25 April 2018 the Deputy Secretary of the Commission participated in the meeting of the Drafting Group on freedom of expression and links to other human rights (CDDH-EXP). This group is working on the draft Guide to good practices on reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies.

⁴⁵ CDL-AD(2014)005

The CDDH was actively involved in the elaboration of the so-called Venice Principles on the Ombudsman Institution, by *inter alia* submitting written comments and participating in the international stakeholders meeting in Paris on 31 October 2018. Commission representatives exchanged views on the Venice Principles with the CDDH-INST on 15 March 2018 and with the CDDH on 20 June 2018 in Strasbourg.

Youth Department – Directorate of Democratic Participation, DG Democracy

One of the Vice Presidents of the Commission participated in a consultative meeting, organised by the Youth Department in co-operation with the Council of Europe Conference of INGO's and the European Youth Forum to explore the "Shrining space for civil society: its impact on young people and their organisations", held on 6/7 November 2018 at the European Youth Centre in Strasbourg.

2. EUROPEAN UNION

In 2018, the co-operation between the Venice Commission and the European Union further consolidated.

The European Union continued to invite its member and candidate states to follow the Venice Commission's recommendations. The European Commission Services relied on the consistent and constructive contribution of the Venice Commission in the assessment of complex reform processes in member countries as well as in candidate and potential candidate countries. The Commission's opinions concerning the judiciary in Poland were referred to in the process of the opening of the procedure according to Article 7 of the Treaty of the European Union to suspend certain rights from a member state in respect of Poland.

As is customary the Venice Commission provided input to the on-going EU efforts to support reforms in enlargement countries, channelling them within well designed technical boundaries while still respecting domestic ownership at all stages. The Venice Commission was involved in consultations with the EU bodies on topics concerning EU policies and its relations with countries - members of the EU, candidate States and neighbourhood States.

The Secretary of the Commission, Thomas Markert attended a COSCE working party of the EU Council on 19 January 2018 in Brussels where he presented the on-going and forthcoming opinions of the Commission on non-EU member states. On the margins of this event, he held working meetings with the representatives of EEAS and DG NEAR on the Venice Commission activities in the Eastern Partnership countries (Ukraine, Moldova and Georgia), Russia, the Balkans and Turkey; with the DG JUST, DG HOME and the Legal Service on the recent developments in Poland, Hungary, Bulgaria and Romania; and with the Managing Director of the EEAS on the recent activities in Central Asia.

On 26 November 2018 in Brussels the President and the Secretary of the Venice Commission participated in the **EU annual Colloquium on Fundamental Rights**. Mr Buquicchio intervened in Plenary Session A: "Resilient and Inclusive Democracies in Europe". On the side-lines of the colloquium, the President and the Secretary had a brief exchange of views with the 1st Vice President of the European Commission Mr Frans Timmermans. On the same occasion, President Buquicchio met with the EU Commissioner for European Neighbourhood Policy and Enlargement Negotiations, Mr Johannes Hahn. They reiterated their mutual commitment for the same values and vision for a stronger Europe and stressed that both institutions were natural partners in promoting the rule of law and legal reforms across European neighbourhood.

Representatives of the Legal Service and DG Justice, the European External Action Service as well as the Committee of the Regions participated in the plenary sessions of the Venice Commission in 2018.

European Parliament

The European Parliament has referred to the importance of the work of Venice Commission and/or its documents on more than 150 occasions. In the last ten years more than 80 resolutions of the European Parliament credit the Venice Commission's advisory competencies and call for close co-operation with it on various issues (elections, democratic institutions etc.) In 2018, the European Parliament continued referring to the Venice Commission's work and consultations with its representatives on important issues.⁴⁶ Below are some examples:

On general issues:

- Resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights⁴⁷;
- Resolution of 3 May 2018 on media pluralism and media freedom in the European Union⁴⁸;
- Resolution of 19 April 2018 on the need to establish a European Values Instrument to support civil society organisations which promote fundamental values within the European Union at local and national level⁴⁹.
- Report on the proposal for a regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States (COM(2018)0324 – C8-0178/2018 – 2018/0136(COD))⁵⁰;
- Report on the situation of fundamental rights in the European Union in 2017 (2018/2103(INI))⁵¹;
- Report on the 2017 EU Justice Scoreboard (2018/2009(INI))⁵².

On specific countries:

- Report on 2018 Commission Report on Bosnia and Herzegovina (2018/2148(INI))⁵³;
- Resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded (2017/2131(INL))⁵⁴;
- Resolution of 5 July 2018 on the political crisis in Moldova following the invalidation of the mayoral elections in Chişinău⁵⁵;
- EP Resolution of 29 November 2018 on the 2018 Commission Report on Montenegro (2018/2144(INI))⁵⁶;
- Resolution of 13 November 2018 on the Rule of law in Romania⁵⁷;
- Resolution of 29 November 2018 on the 2018 Commission Report on Serbia⁵⁸;
- Resolution of 29 November 2018 on the 2018 Commission Report on "the former Yugoslav Republic of Macedonia"⁵⁹ (see footnote 25);
- Resolution of 8 February 2018 on the current human rights situation in Turkey⁵⁹

⁴⁶ For more references to the work of the Commission by the EU please refer to the Venice Commission's website page "References": http://www.venice.coe.int/WebForms/pages/?p=02_references&lang=EN.

⁴⁷ (2018/2886(RSP))

⁴⁸ (2017/2209(INI))

⁴⁹ (2018/2619(RSP))

⁵⁰ A8-0469/2018

⁵¹ A8-0466/2018

⁵² A8-0161/2018, contains specific reference to the Commission's Rule of Law Checklist.

⁵³ A8-0467/2018

⁵⁴ P8_TA-PROV(2018)0340

⁵⁵ 2018/2783(RSP)

⁵⁶ 2018/2844(RSP)

⁵⁷ 2018/2146(INI)

⁵⁸ 2018/2145(INI)

⁵⁹ 2018/2527(RSP)

- Report on the implementation of the EU Association Agreement with Ukraine (2017/2283(INI))⁶⁰;
- Resolution of 19 April 2018 on Belarus⁶¹;
- Resolution of 29 November 2018 on the 2018 Commission Report on Kosovo⁶²;
- EP Recommendation of 30 May 2018 to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on Libya⁶³.

On 10 October 2018 in Brussels the Venice Commission participated in a high level conference on “The future of international election observation”. This event was organised by the European Parliament's Democracy Support and Election Co-ordination Group (DEG) and the European External Action Service of the European Commission. The conference discussed new challenges that observer organisations had to take into account in their observation processes, including the use of digital technologies and social networks, but also violence during electoral processes.

Exchanges of view

On 16 April 2018 in Strasbourg the President and the Deputy Secretary of the Venice Commission exchanged views with the Constitutional Affairs Committee (AFCO) of the European Parliament, on the role, activities and working methods of the Venice Commission.

On 20 November 2018 a representative of the Venice Commission presented the latest opinions on Poland and the rule of law checklist at a hearing on the “Situation of the rule of law in Poland” organised by the EP Civil Liberties, Justice and Home Affairs Committee (LIBE).

Seminars and conferences

On 26 April 2018 a representative of the Venice Commission participated in the “Event on democratic participation and electoral matters”, organised by European Commission's Directorate for Equality and Union Citizenship, where he shared the conclusions of the 15th conference of the EMBs held in 2018 in Norway on “Security in elections”. Also, in the field of elections, a Venice Commission representative participated in the High-Level Conference, organised by the European Commission on 15 October 2018 in Brussels on “Election Interference in the Digital Age. Building resilience to cyber-enabled threats”.

Senior European Union representatives addressed the two regional UniDem Med seminars held in 2018 and the Intercultural Workshop for Democracy held in Tunis on 13-14 November 2018.⁶⁴

Joint European Union – Council of Europe Projects

In 2018, the Venice Commission continued its co-operation with several countries within the framework of the following joint projects:

- “Ensuring sustainable democratic governance and human rights in the Southern Mediterranean” (segment of the South Programme III);
- Horizontal facility for the Western Balkans and Turkey;
- Partnership for Good Governance (PGG);
- “Support to strengthening democracy through electoral reform in the Kyrgyz Republic”.

⁶⁰ A8-0369/2018

⁶¹ (2018/2661(RSP))

⁶² (2018/2149(INI))

⁶³ (2018/2017(INI))

⁶⁴ For more information on these activities please refer to the Chapter V.

“Ensuring sustainable democratic governance and human rights in the Southern Mediterranean” (a segment of the South Programme III)

Launched in 2012, and re-conducted in 2015 and 2017, the South Programme is a strategic European Union-Council of Europe initiative to support democratic reforms in the southern Mediterranean in response to demand from the partners in the region. From legislative expertise to strengthening institutions’ capacities through peer-to-peer exchanges and networks, the South Programme aims *inter alia* to support the development of new constitutional and legislative frameworks and democratic governance bodies in countries in the region and to contribute to the establishment of a common legal area between Europe and the southern Mediterranean. For more information on this project please refer to Chapter V above.

Horizontal Facility for the Western Balkans and Turkey

The European Union/Council of Europe Horizontal Facility for the Western Balkans and Turkey (Horizontal Facility) is a co-operation initiative of the European Union and the Council of Europe for South East Europe. Launched in May 2016, the Horizontal Facility is a Joint Programme, which covers activities of the Council of Europe in Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia as well as Kosovo. It includes the Council of Europe Expertise Co-ordination Mechanism (ECM), by which the Council of Europe in general and the Venice Commission in particular provide expertise to respond to requests for legislative analysis and policy advice from Horizontal Facility beneficiary countries. Thus, a vast majority of the Commission’s opinions on the legislation of the beneficiary countries was funded by this programme.

In 2018, the Venice Commission provided legal assistance to the State Election Commission of Albania and to the Ministries of Justice of Serbia and Montenegro.

For more information on these activities cf. Chapters II (Constitutional reforms, state institutions, human rights and the judiciary) and IV (Elections, referendums and political parties) above.

Partnership for Good Governance

In 2018, the Venice Commission continued to implement the Council of Europe’s part of the Programme “Partnership for Good Governance” (PGG) 2015-2018 in the six Eastern European countries (Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine) with funding provided by the European Union. Through its project in the constitutional field, the Venice Commission contributed to strengthening constitutional justice in the afore-mentioned countries by fostering regional co-operation among constitutional courts and building their capacities of impartial constitutional review bodies.

The Project supported the authorities of targeted countries in identifying unconstitutional provisions and legal gaps by preparing, upon request from the authorities, legal opinions on draft laws and monitoring the follow-up given to these opinions by the authorities. During the lifetime of the project, the Venice Commission adopted 18 opinions and *amicus curiae* briefs as regards Armenia, Azerbaijan, Georgia, the Republic of Moldova and Ukraine.

In order to increase the number of references to foreign and international law in constitutional courts’ judgments, the constitutional courts in the project area expressed a strong demand for international and regional experience-sharing. Constitutional court judges and registries took part in regional conferences to examine and take stock of the developments in the field of constitutional justice and to discuss challenges faced by the constitutional courts and ways to overcome them. These issues were discussed at length at 14 conferences in all six beneficiary countries. Before the start of the project, regional conferences were held annually

in Armenia with occasional requests coming from the Constitutional Courts of Georgia and the Republic of Moldova.

The CODICES database, created in 1996, was in urgent need of technical updating. Thanks to PGG funding, a specific search facility was created for the case-law of EaP Constitutional courts in the CODICES database enabling a specific search for Eastern Partnership case-law within CODICES. A search with group keyword 'EaP' gave 797 EaP judgments at the end of 2018. Moreover, a new CODICES Alert Management System (CODICES AMS) and the on-line CODICES data entry mask were developed to enable users to register requests for new alerts on constitutional case-law summaries fulfilling certain criteria as well as for liaison officers to submit on-line summaries for their contributions to the Bulletin on Constitutional Case-Law and the CODICES database.

The exchanges and existing tools facilitated Constitutional Courts' access to information, thus helping them to deliver higher quality judgments backed up with appropriate references to international and foreign case-law.

“Support to strengthening democracy through electoral reform in the Kyrgyz Republic”

In 2018, the Venice Commission continued the implementation of the project “Support to strengthening democracy through electoral reform in the Kyrgyz Republic” which had been launched in 2017. The main areas of project activities are:

- Support the authorities of the Kyrgyz Republic in the elaboration of a comprehensive electoral reform strategy
- Capacity building of the State Registration Service and the Central Election Commission, the main beneficiaries of the project
- Support the authorities in improving the electoral dispute resolution system
- Support relevant actors to enhance data protection mechanisms
- Capacity building of electoral commissions, political parties, relevant actors and other participants in the electoral process.

In 2018 a number of activities were held in the framework of the aforementioned project.

By mutual agreement between the Venice Commission and the Delegation of the European Union in Kyrgyzstan the project has been extended until April 2019. For more information on this project please refer to Chapter V above.

EU Agency for Fundamental Rights and the European Ombudsman

The EU Agency for Fundamental Rights, the European Ombudsman of the EU participated in the elaboration of the Venice Principles on the Ombudsman Institution by submitting written comments and participating in the international stakeholders meeting, organised by the Venice Commission on 31 October 2018 in Paris.

3. OSCE

In 2018 the Commission continued its longstanding co-operation with the OSCE in the field of the protection of fundamental rights and elections and political parties in a fruitful manner.

On 12 September 2018 in Warsaw the Venice Commission participated in the 2018 OSCE **Human Dimension Implementation Meeting (HDIM)**. The Deputy Secretary of the Commission introduced the 4th Working Session “Rule of Law - I” devoted to the independence of the judiciary, the right to a fair trial, and democratic law-making.

Protection of fundamental rights

Joint opinions

In 2018, the Commission and the OSCE/ODIHR continued to prepare jointly the opinions in the field of the protection of fundamental rights:

- **Armenia** - Joint Opinion on the Draft Law amending the Law on Freedom of Conscience and on Religious Organisations;⁶⁵
- **Hungary** - Joint Opinion on Section 253 on the special immigration tax of Act XLI of 20 July 2018 amending certain tax laws and other related laws and on the immigration tax;⁶⁶
- **Hungary** - Joint Opinion on the Provisions of the so-called "Stop Soros" draft Legislative Package which directly affect NGOs (in particular Draft Article 353A of the Criminal Code on Facilitating Illegal Migration);⁶⁷
- **Romania** - Joint Opinion on Draft Law No. 140/2017 on amending Governmental Ordinance No. 26/2000 on Associations and Foundations;⁶⁸
- **Ukraine** - Joint Opinion on Draft Law No. 6674 "On Introducing Changes to Some Legislative Acts to Ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance" and on Draft Law No. 6675 "On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance".⁶⁹

On 15 July 2018 in Udine the Commission was represented at the celebration of the 10th Anniversary of the launch of the **Bolzano / Bozen Recommendations on National Minorities** in Inter-State Relations. These recommendations were adopted by the OSCE High Commissioner on National Minorities in 2008, building on the Venice Commission's 2001 Report on Preferential treatment of National Minorities by the Kin-State.

Representatives of the OSCE/ODIHR participated in the drafting of the **Venice Principles** on the Ombudsman Institution by submitting their written comments and participating in the international stakeholder meeting organised by the Commission on 31 October 2018 in Paris.

Joint Guidelines on the freedom of peaceful assembly

Both organisations continued the revision of the Joint Guidelines on the freedom of peaceful assembly.⁷⁰ To this end, the Venice Commission participated in a workshop organised by the OSCE/ODIHR Panel as part of the revision of the Joint Guidelines on the freedom of peaceful assembly held on 22 February 2018 in Warsaw.

Elections, referendums and political parties

The OSCE / ODIHR participated in the four 2018 meetings of the Council for Democratic Elections and the plenary sessions of the Commission.

Joint opinions

In 2018, the Commission and the OSCE/ODIHR prepared jointly the following opinions in the field of elections:

⁶⁵ CDL-AD(2018)002

⁶⁶ CDL-AD(2018)035

⁶⁷ CDL-AD(2018)013

⁶⁸ CDL-AD(2018)004

⁶⁹ CDL-AD(2018)006

⁷⁰ CDL-AD(2010)020

- **Albania** - Joint Opinion on the draft law on the legislative initiative of the citizens - CDL-AD(2018)026;
- **Republic of Moldova** - Joint Opinion on the law for amending and completing certain legislative acts (Electoral system for the election of Parliament) - CDL-AD(2018)008
- **Turkey** - Joint Opinion of the Venice Commission and ODIHR on amendments to the electoral legislation and related "harmonisation laws" adopted in March and April 2018 - CDL-AD(2018)031;
- **Uzbekistan** - Joint Opinion on the draft election code - CDL-AD(2018)027.

Lignes directrices conjointes sur la réglementation des partis politiques

La révision des lignes directrices conjointes sur la réglementation des partis politiques, élaborées par l'OSCE/BIDDH et la Commission de Venise en 2010 à la suite d'un vaste processus inclusif, avait été entamée en 2016, afin d'incorporer de nouvelles expériences, d'affiner les lignes directrices et de tenir compte des nouvelles tendances et de l'introduction de thèmes spécifiques. Plusieurs membres de la Commission ont contribué à cette révision en 2017 et 2018 et la poursuivront en vue de l'adoption de la nouvelle version par la Commission de Venise.

Seminars and conferences

On 30 October 2018 in Vienna the Venice Commission participated in a seminar entitled "Election observation and election campaigns" organised by the OSCE/ODIHR.

The Secretary of the Commission participated in the 3rd Round Table on the laws on the judiciary in Poland on 9 July 2018 in Warsaw.

On 3 July 2018 in Tirana an expert of the Venice Commission took part in a workshop on **electoral administration** of the Parliamentary Ad Hoc Committee on Electoral Reform which was organised with the support of the OSCE/ODIHR. On 27 June 2018 in Tirana an expert of the Venice Commission took part in a workshop on **out-of-country voting** of the Parliamentary Ad Hoc Committee on Electoral Reform which was organised with the support of the OSCE Presence in Albania.

On 26 June 2018 in Tbilisi a regional international conference entitled "**Money in Politics**" took place. An expert spoke on behalf of the Venice Commission at Session I: "Regulating money and politics, a regional overview". The event was co-organised by the OSCE/ODIHR along with the State Audit Office of Georgia, the Council of Europe, IFES, International IDEA, Transparency International TI-Georgia, and by the Eastern European Centre of Multiparty Democracy.

4. UNITED NATIONS

Haut-Commissariat aux droits de l'homme, Rapporteur spécial sur la situation des défenseurs des droits de l'homme

Dans le cadre de la préparation des Principes de Venise la Commission a collaboré avec le Haut-Commissariat aux droits de l'homme, le Rapporteur spécial des Nations Unies sur la situation des défenseurs des droits de l'homme. Les représentants de ces deux organes de l'ONU ont soumis leurs commentaires et ont participé à la réunion des parties prenantes internationales concernant l'élaboration du texte des Principes de Venise, tenue à Paris le 31 octobre 2018.

United Nations Development Programme (UNDP)

In 2018 the Venice Commission continued its fruitful co-operation and exchanges of information with several UNDP projects, notably in the countries of the Southern Mediterranean and in Ukraine.

In the Southern Neighbourhood the Venice Commission continued its fruitful co-operation with the UNDP's Bureau for Policy and Programme Support (Regional Hub for Arab States) in supporting the Organisation of the Arab Electoral Management Bodies (Arab EMBs) and preparing the third General Assembly meeting of the organisation. Initially, the activity was planned for November 2018, but following a request from the organisation's Executive Board, the event had to be postponed until February 2019.

The Venice Commission continued regular exchanges within the EU/UNDP project "Rada for Europe: driving reforms across Ukraine" in the framework of its co-operation with the Verkhovna Rada on reform of its Internal Rules of Procedure and enhancing its efficiency.

UN Global Judicial Integrity Network

The Deputy Secretary of the Commission participated in the Launch of the UN Global Judicial Integrity Network organised on 6 April 2018 in Vienna. The Venice Commission, together with the Group of States against Corruption (GRECO) and the Consultative Council of European Judges (CCJE) co-organised the Council of Europe panel entitled "Transparency and how to demystify the work of courts".

United Nations Support Mission in Libya (UNSMIL)

In 2018 upon request from the EU Delegation to Libya, a Venice Commission expert, Mr Peter Wardle, was involved in the working group in charge of the preparation of the draft laws on referendum, parliamentary and presidential elections put in place by UNSMIL.

5. CO-OPERATION WITH OTHER INTERNATIONAL ORGANISATIONS

Associations of Constitutional Courts

In 2018, the Venice Commission co-operated with the following international organisations active in the constitutional justice field:

- Association of Asian Constitutional Courts and Equivalent Institutions (AACC);
- Association of Constitutional Courts using the French Language (ACCPUF);
- Conference of the Constitutional Control Organs of the Countries of New Democracy (CCCOCND);
- Conference of Constitutional Jurisdictions of Africa (CCJA);
- Conference of European Constitutional Courts (CECC);
- Ibero-American Conference of Constitutional Justice (CIJC);
- Conference of Constitutional Courts of Portuguese Speaking Countries (CJCPLP);
- Southern African Chief Justices Forum (SACJF);
- Union of Arab Constitutional Courts and Councils (UACCC).

For more information on co-operation with these organisations please refer to Chapter III above.

Association des Ombudsmans de la Méditerranée (AOM)

La Commission a organisé, en coopération avec l'Association des Ombudsmans de la Méditerranée (AOM), les 28 et 29 novembre 2018, à Rabat, une session de formation pour les collaborateurs des institutions membres de l'AOM sur « Les droits des personnes

détenues dans le territoire national et de celles détenues à l'étranger : le rôle des institutions de médiateur », ainsi que la 10ème rencontre de l'Association des Ombudsmans de la Méditerranée « L'Ombudsman en tant que protecteur des droits sociaux, culturels et environnementaux », les 29-31 mai, à Skopje.

Association of Ombudsmen and Mediators of the Francophonie (AOMF)

The Venice Commission participated in a seminar co-organised by the Association of Ombudsmen and Mediators of the Francophonie (AOMF) and the Advocate of the People of Romania entitled "The judge and the institutional mediator" on 3-4 April 2018 in Bucharest. The Commission presented its draft "Principles on the protection and promotion of the Ombudsman institution" ("The Venice Principles").

Also, in 2018, in co-operation with the Association of Mediators and Ombudsmen of the Francophonie (AOMF), a seminar on "Managing newcomers" was organised by the Ombudsman Institution of Morocco and the Venice Commission on 9-11 October 2018 in Rabat. This workshop gathered together collaborators of Ombudsman Institutions for an exchange of experiences and best practices. This activity was funded by the programme "Ensuring Sustainable Democratic and Human Rights in the Southern Mediterranean" funded by the European Union and implemented by the Council of Europe.

In addition, the Venice Commission participated in the 10th Congress of the Association of Ombudsmen and Mediators of the Francophonie (AOMF) held on 6-9 November 2018 in Brussels and Namur (Belgium). This Congress entitled "20 years supporting ombudsmen and the rule of law" was also the occasion to celebrate the 20th anniversary of the AOMF.

Fédération ibéro-américaine des ombudsmans (FIO)

Dans le cadre de la préparation des Principes de Venise la Commission a collaboré avec la FIO. Les représentants de cette Fédération ont soumis leurs commentaires et participé à la réunion des parties prenantes internationales concernant l'élaboration du texte des Principes, tenue à Paris le 31 octobre 2018. En outre, la Commission a participé à une l'Assemblée Générale de la FIO le 22 novembre 2018 pour y présenter le projet de « Principes de Venise ».

Autres institutions internationales d'ombudsman

Dans le cadre de la préparation des Principes de Venise la Commission a également collaboré l'Institut international de l'Ombudsman (IIO) et le Réseau européen des institutions nationales des droits de l'homme (ENNNHRI).

Association des administrateurs européens d'élections (ACEEEO)

La Commission a participé à la 27e conférence annuelle de l'ACEEEO, consacrée au thème « La garantie de la confidentialité, de la sécurité et de l'intégrité du vote de l'électeur » ; en particulier, un atelier a été consacré à la cyber-sécurité.

En marge de cette conférence, des représentants de la Commission ont participé à une réunion sur le développement d'un réseau européen/eurasiatique de jurisprudence électorale.

International Foundation for Electoral Systems (IFES)

In 2018 the Venice Commission continued its co-operation with the International Foundation for Electoral Systems (IFES) in Ukraine and in Kyrgyzstan. In the framework of the "Electoral systems week" and in co-operation with IFES, USAID and other international partners the Venice Commission co-organised a Round Table on the electoral reform process in Ukraine in

April 2018.⁷¹ IFES was one of the co-organisers of the regional international conference entitled “Money in Politics” which took place on 26 June 2018 in Tbilisi.

International IDEA

Since 2015, this institution enjoys observer status with the Council for Democratic Elections – a tripartite body comprised of representatives of the Venice Commission, PACE and the Congress of the Council of Europe. International IDEA was one of the co-organisers of the regional international conference entitled “Money in Politics” which took place on 26 June 2018 in Tbilisi.

League of Arab States

The Venice Commission participated in the 2nd Forum of Electoral Management Bodies in Arab States, organised by the League of Arab States and the UN in Cairo on 13-14 November 2018. The participation of the Venice Commission in the Forum was funded by the Joint Council of Europe-European Union Programme "Ensuring the Sustainability of Democratic Governance and Human Rights in the Southern Mediterranean", South Programme III.

Konrad Adenauer Stiftung

On 5 December 2018 in Strasbourg the Secretary of the Commission participated in a conference on the “Independence of judiciary under threat”, organised by the Konrad Adenauer Foundation.

OECD

The Venice Commission continued in 2018 its constructive collaboration with the OECD in the framework of different regional events organised in the southern Mediterranean. Experts from OECD participated in the two UniDem Med seminars organised by the Commission in 2018.

Organisation of American States (OAS)

2018 was marked by a fruitful co-operation with the OAS. The Commission adopted, at the request of the OAS, the Part I of the Report on term limits (Presidents). The Commission started the preparation of the second and third parts of the report on term limits of MPs, locally elected representatives, governors and mayors.

The Venice Commission participated in the 13th Inter-American Meeting of Electoral Authorities (RAE) organised by the Department of Electoral Cooperation and Observation of the Organization of American States (OAS) on 7- 9 November 2018 in Santo Domingo, Dominican Republic.

Organisation of Electoral Management Bodies of Arab countries

In 2018 the Venice Commission and UNDP continued exchanges with the Organisation of Electoral Management bodies of Arab countries on the preparation of the 3rd General Assembly and a Conference on electoral complaints and appeals mechanisms in the Arab region. Initially, the activity was planned for November 2018, but following a request from the organisation’s Executive Board, the event had to be postponed until February 2019.

⁷¹ For more information please see Chapter V

International Organisation of La Francophonie (OIF)

In 2018, the Venice Commission and the OIF signed an agreement (*protocole d'accord*) under which the OIF provided a financial contribution for the translation from English into French of contributions made to the Bulletin on Constitutional Case-Law by constitutional courts and equivalent bodies in member, associate member and observer states of the OIF.

The Venice Commission recognised this support in the Bulletin on Constitutional Case-Law and the CODICES database.

Union of Administrative Justice

On 8 January 2018 in Cairo the Venice Commission participated in an international conference on the “Role of administrative courts in electoral disputes”, organised by the Arab Union of Administrative Justice. Experts from Egypt, Tunisia, Iraq, Lebanon, Mauritania, Sudan, Bahrain and France addressed the issue of electoral disputes before the administrative judges from the Courts members of the Union.

APPENDIX I - 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.⁷² The Commission holds four plenary sessions a year in Venice. In 2002, once all Council of Europe member states had joined, the Commission became an enlarged agreement, opening its doors to non-European states, which could then become full members. In 2018, it had 61 full members and 13 other entities formally associated with its work. The Commission 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.

1. *Constitutional assistance*

The Commission's prime function is to provide **constitutional assistance** to States, mainly (but not exclusively) to those which participate in its activities.⁷³ This assistance comes in the form of opinions, prepared by the Commission at the request of States and of organs of the Council of Europe, more specifically the Parliamentary Assembly, the Committee of Ministers, the Congress of Local and Regional Authorities and the 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 made crucial contributions 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 of the compatibility of laws and constitutional provisions 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 a 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, sometimes with the assistance of external experts. It is common practice for the working group to travel to the country concerned in order to hold meetings and discussions on the issue(s) concerned with the national authorities, other relevant bodies and 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 for 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 their adoption, the opinions are transmitted to the state or the body which requested it, and come into the public domain.

⁷² 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.

⁷³ 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.

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 prefers to acquire an understanding of 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 to function successfully. 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 in question has been adopted.

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

Ordinary courts have become a subject of growing importance for the Commission. The latter is increasingly asked to give an opinion on constitutional aspects of legislation relating to courts. In this area, it frequently co-operates with other Council of Europe departments, to ensure 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**. The Commission promotes relations between ombudspersons and constitutional courts with the aim of furthering human rights protection in member countries.

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. The Commission has also elaborated a comprehensive Rule of Law Checklist as a tool for assessing the degree of respect for this major standard in any country. The Committee of Ministers has endorsed it and has called on member States to use and widely disseminate this Checklist.

These studies may, where appropriate, lead to the preparation of guidelines and even proposals for international agreements. Previously, they took the form of scientific conferences under the Universities for Democracy (**UniDem**) programme, the proceedings of which were subsequently published in the "**Science and technique of democracy**" series.⁷⁴

⁷⁴ See Appendix V.

3. *Constitutional justice*

After assisting States in adopting democratic constitutions, the Commission pursues its action aimed at achieving the rule of law by focussing 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 in 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 body is made up of members of the Commission and liaison officers appointed by 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 Communities 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 regional groups and language based groups.

This 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 themselves 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. The Venice Commission acts as the secretariat for the World Conference. At the Third Congress, which was co-organised with the Constitutional Court of Republic of Korea in Seoul on 28 September – 1 October 2014, around 90 Courts discussed the challenges of social integration for constitutional justice. At the Fourth Congress, which was co-organised with the Constitutional Court of Lithuania in Vilnius on 11-14 September 2017, the topic of **"The Rule of Law and Constitutional Justice in the Modern World"** was discussed by 91 Courts.

At the end of 2018, 114 constitutional courts and equivalent bodies had joined the World Conference as full members.

Since 1993, the Commission's constitutional justice activities have also included the publication of the **Bulletin on Constitutional Case-Law**, which has now become electronic and contains summaries in French and English of the most significant decisions over a four-month period. It also has a counterpart, the **CODICES database**, which contains some 10,000 decisions rendered by over 100 participating courts together with constitutions and

descriptions of many courts and the laws governing them.⁷⁵ 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, 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 case-law, if need be, the Bulletin and the CODICES database 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.

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 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. In order to give electoral laws certain stability and to further the construction of a European electoral heritage, the Venice Commission and the Council for Democratic Elections developed the principles of the European electoral heritage, in particular by drafting 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),⁷⁶ **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 recurrent challenges and problematic issues of electoral law and electoral administration, electoral law and national minorities, electoral systems, including thresholds, and women’s representation in political systems and preventing the misuse of administrative resources during electoral campaigns. In the field of political parties, the Venice Commission has also drafted joint guidelines on political party regulation with the OSCE/ODIHR, and addressed the prohibition, dissolution and financing of political parties, as well the method of nomination of candidates in political parties. The Commission has adopted more than sixty studies or guidelines of a general nature in the field of elections, referendums and political parties.

The Commission has drafted more than 130 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-

⁷⁵ CODICES is available on line (<http://www.CODICES.coe.int>).

⁷⁶ 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.

operate with the Commission in the electoral sphere are Albania, Armenia, Georgia, the Republic of Moldova 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 (the 15th edition took place in 2018 in Oslo), 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 regular co-operation.

The Commission also holds scientific **seminars**. In particular, it co-organises with the Permanent Electoral Authority of Romania the Scientific Electoral Experts Debates; the first edition in 2016 dealt with “Electoral Law and New Technologies”, while the second one in 2018 addressed “Equal suffrage”. It is responsible for training sessions for Central Electoral Commissions and judges on electoral disputes and other legal issues, as well as for long-term assistance to these Commissions. The Commission also provides legal assistance to PACE delegations observing elections.

The Council for Democratic Elections has created the VOTA⁷⁷ database containing, inter alia, member States' electoral legislation. It now manages this database jointly with the Electoral Tribunal of the Judicial Power of the Mexican Federation (*Tribunal electoral del poder judicial de la Federación, TEPJF*). The database was fully updated in 2018.

4. 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 Agreement in 2002. Since this date several non-European countries became full members of the Commission. The new statute and the financial support provided by the European Union and several Council of Europe member states, made it possible to develop full-scale co-operation programmes with Central Asia, Southern Mediterranean and Latin America.

The Venice Commission has been working in **Central Asia** for over 25 years. This co-operation was mainly possible in the framework of several bilateral and regional projects with funding provided by the European Union. The national institutions of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan were assisted in order to build their capacity to carry out reforms of their legal systems in line with European and international human rights standards, including the European Convention on Human Rights and the case-law of the European Court of Human Rights. Within the projects, the Venice Commission organised a number of events providing opportunities for exchanging views with the authorities of Central Asian States on topics such as constitutional justice, reform of the electoral legislation and practice and access to justice. All countries of the Central Asian region are engaged in a constructive dialogue and the impact of concrete actions undertaken by the Commission has been constantly increasing since 2007. In 2018 the Venice Commission continued bilateral co-operation with higher judicial bodies of the five countries of the region which show continuous interest in the assistance of the Venice Commission. At the end of 2016 the Commission signed a co-operation Agreement with the European Union for the implementation of a new project in the electoral field in Kyrgyzstan. This project enabled a number of capacity-building activities in the electoral field to be organised during 2018.

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

⁷⁷ VOTA is accessible on line: <http://www.venice.coe.int/VOTA>.

farsightedness proved very useful. After the Arab spring the Commission established a 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 Algeria, Egypt, Jordan, Lebanon 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 the countries of the Maghreb and the Middle East. In 2015 the Commission launched the UniDem-Med programme and assisted in the establishment of the Conference of Arab Election Management Bodies. In 2018 the authorities of Egypt, Lebanon and Palestine showed a growing interest in co-operation with the Venice Commission.

Latin American countries have always been interested in sharing experiences and best practices with Europe, in such fields as democratic transition, constitution-building, constitutional justice and electoral legislation and practice. The Venice Commission became crucial for making such dialogue possible. In recent years the Commission with its partners in Argentina, 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 focussed on the implementation of the new constitution in Bolivia in 2011 - 2012. The Commission created a specific Sub-Commission on Latin America which further developed dialogue on a number of issues in particular concerning fundamental rights, constitutional law, constitutional justice and elections. The Commission enjoys particularly fruitful co-operation with the the Electoral Tribunal of the Judicial Power of the Mexican Federation (*Tribunal electoral del poder judicial de la Federación*, TEPJF) and the Mexican National Electoral Institute (INE). Since 2017 the Venice Commission has been actively co-operating with the Organization of American States (OAS).

APPENDIX II - MEMBER COUNTRIES

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)
Costa Rica (06.07.2016)
 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)
Kosovo (12.09.2014)
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)
 North Macedonia (19.02.1996)
 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)
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 Commission
 OSCE/ODIHR

SPECIAL CO-OPERATION STATUS

Palestine⁷⁸
 South Africa

⁷⁸ This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of Council of Europe member States on this issue.

APPENDIX III - INDIVIDUAL MEMBERS⁷⁹

Albania

- Ms Aurela ANASTAS, Professor, Faculty of Law, University of Tirana
- Mr Artur METANI (Substitute member), Deputy General Secretary, Director of Department of Legislation, Monitoring of Programmes and Anticorruption, Council of Ministers

Algeria

- Mr Mourad MEDELICI, President, Constitutional Council⁸⁰
- Mr Mohamed HABCHI (Substitute member), Vice-President, Constitutional Council

Andorra

- Mr Pere VILANOVA TRIAS, Professor of Political Science and Public Policy, University of Barcelona

Armenia

- Mr Gagik G. HARUTYUNYAN, President, Constitutional Court
- Mr Vardan POGHOSYAN (Substitute member), Team Leader Armenia, GIZ Programme "Legal Approximation towards European Standards in the South Caucasus"

Austria

- Mr Christoph GRABENWARTER, Judge, Constitutional Court of Austria
- Ms Katharina PABEL (Substitute member), Professor, University of Linz
- Mr Andreas HAUER (Substitute member), Member, Constitutional Court

Azerbaijan

- Mr Rövşən İSMAYILOV, Judge, Constitutional Court

Belgium

- Mr Jan VELAERS, Professor, University of Antwerp
- M. Jean-Claude SCHOLSEM (Substitute member), Professor Emeritus, University of Liege

Bosnia and Herzegovina

- Mr Zlatko KNEŽEVIĆ, Vice President, Constitutional Court
- Mr Nedim ADEMOVIĆ (Substitute member), Lawyer
- Mr Marko BEVANDA (Substitute member), Assistant Professor, Faculty of law, University of Mostar

Brazil

- Ms Carmen Lucia ANTUNES ROCHA, President, Federal Supreme Court
- Mr Gilmar Ferreira MENDES (Substitute member), Justice, Federal Supreme Court

Bulgaria

- Mr Philip DIMITROV, Judge, Constitutional Court
- Mr Plamen KIROV (Substitute member), Former Judge, Constitutional Court

Chile

- Mr Domingo HERNANDEZ EMPARANZA, Judge, Constitutional Tribunal
- Mr José Ignacio VASQUEZ MARQUEZ (Substitute member), Judge, Constitutional Tribunal

Costa Rica

- Mr Fernando CRUZ CASTRO, President a.i., Constitutional Chamber of the Supreme Court
- Mr Fernando CASTILLO VIQUEZ (Substitute member), Judge, Supreme Court

⁷⁹ As at 31 December 2018.

⁸⁰ Deceased 28 January 2019

Croatia

- Ms Jasna OMEJEC, Professor of Administrative Law, Law Faculty, University of Zagreb
- Mr Toma GALLI (Substitute member), Director, Directorate of International Law, Ministry of Foreign and European Affairs

Cyprus

- Mr Myron Michael NICOLATOS, President, Supreme Court
- Mr Stelios NATHANAEL (Substitute member), Judge, Supreme Court

Czech Republic

- Ms Veronika BÍLKOVÁ, Vice-President of the Venice Commission, Lecturer, Law Faculty, Charles University
- Ms Kateřina ŠIMÁČKOVÁ (Substitute member), Judge, Constitutional Court

Denmark

- Mr Jørgen Steen SØRENSEN, Parliamentary Ombudsman
- Mr Michael Hansen JENSEN (Substitute member), Professor, University of Aarhus

Estonia

- Mr Oliver KASK, Judge, Tallinn Court of Appeal
- Ms Ene ANDRESEN (Substitute member), Lecturer of Administrative Law, Tartu University

Finland

- Mr Kaarlo TUORI, Professor of Jurisprudence, Department of Public Law, University of Helsinki
- Ms Palvi HIRVELA (Substitute member), Justice, Supreme Court

France

- Ms Claire BAZY-MALAUZIE, Member, Constitutional Council, Former member of the Auditors' Board
- M. Jean-Jacques HYEST (Substitute member), Member of the Constitutional Council

Georgia

- Mr Mindia UGREKHELIDZE, Former judge at the European Court of Human Rights, Professor, Head of the Department for Legal Studies, Caucasus International University
- Mr Alexander BARAMIDZE (Substitute member), Practising Lawyer

Germany

- Mr Wolfgang HOFFMANN-RIEM, Former Judge, Federal Constitutional Court
- Ms Monika HERMANN (Substitute member), Justice, Federal Constitutional Court

Greece

- Mr Dionysios FILIPPOU, Assistant Professor of Public Law, Democritus University of Thrace
- Mr Dimosthenis KASSAVETIS (Substitute member), Assistant Professor of Sociology of law, Democritus University of Thrace

Hungary

- Mr Andras Zs. VARGA, Judge, Constitutional Court, Professor, Pázmány Péter Catholic University Faculty of Law and Political Sciences
- Mr András MÁZI (Substitute member), Head of Department of Constitutional Law, Ministry of Justice

Iceland

- Ms Herdis KJERULF THORGEIRSDOTTIR, First Vice-President of the Venice Commission, Attorney at Law
- Mr Thorgeir ÖRLYGSSON (Substitute member), President, Supreme Court
- Mr Hjortur TORFASON (Substitute member), Former Judge, Supreme Court

Ireland

- Mr Richard BARRETT, Deputy Director General, Office of the Attorney General
- Ms Grainne MCMORROW (Substitute member), Senior Counsel, Professor of Law NUI Galway (Adjunct)

Israel

- Mr Dan MERIDOR, Lawyer, Former Prime Minister and Minister of Justice
- Mr Barak MEDINA (Substitute member), Dean, Faculty of Law, The Hebrew University of Jerusalem

Italy

- Mr Gianni BUQUICCHIO, President of the Venice Commission
- Ms Marta CARTABIA (Substitute member), Vice Chair, Constitutional Court
- Mr Cesare PINELLI (Substitute member), Head of the Public Law Section, Legal Science Department, "La Sapienza" University

Kazakhstan

- Mr Igor Ivanovich ROGOV, Deputy Executive Director, Foundation of the First President of the Republic of Kazakhstan
- Ms Unzila SHAPAK (Substitute member), Member, Constitutional Council

Korea, Republic

- Mr Il-Won KANG, Justice, Constitutional Court
- Mr Ho Chul KIM (Substitute member), Chief Prosecutor of Gwangju High Prosecution Service

Kosovo

- Mr Qerim QERIMI, Professor, Law Faculty, University of Pristina
- Mr Visar MORINA (Substitute member) Lecturer, Law Faculty, University of Pristina

Kyrgyzstan

- Mr Kanat KEREZBEKOV, Member of Parliament
- Mr Erkinbek MAMYROV (Substitute member), President, Constitutional Chamber of the Supreme Court

Latvia

- Mr Aivars ENDZIŅŠ, Former President of the Constitutional Court, Head of the Department of Public Law, Turība School of Business Administration
- Mr Gunars KŪTRIS (Substitute member), Former President, Constitutional Court, Member of Parliament

Liechtenstein

- Mr Peter BUSSJÄGER, Judge, Constitutional Court
- Mr Wilfried HOOP (Substitute member), Partner, Hoop & Hoop

Lithuania

- Mr Gediminas MESONIS, Judge, Constitutional Court
- Mr Dainius ZALIMAS (Substitute member) President, Constitutional Court

Luxembourg

- Mme Lydie ERR, Former Ombudsman
- Ms Claudia MONTI (Substitute member), Ombudsman

Malta

- Mr Michael FRENDU, Vice-President of the Venice Commission, Former Speaker, House of Representatives

Mexico

- Ms Janine M. OTÁLORA MALASSIS, President, Federal Electoral Tribunal
- Mr José Luis VARGAS VALDEZ (Substitute member), Judge, Federal Electoral Tribunal
- Mr Eduardo MEDINA MORA ICAZA (Substitute member) Judge, Supreme Court of Justice

Moldova, Republic of

- M. Alexandru TĂNASE, Minister of Justice, Former President, Constitutional Court
- Mr Nicolae EȘANU (Substitute member), Secretary of State, Ministry of Justice

Monaco

- Mr Bertrand MATHIEU, Professor, Faculty of Law, Sorbonne-Université Paris I, Senior Member of the Council of State, Vice-President of IACL
- Mr Christophe SOSSO (Substitute member), Defence Lawyer, Court of Appeal

Montenegro

- Mr Srdjan DARMANOVIC, Minister of Foreign Affairs, Professor of Comparative Politics, University of Montenegro
- Mr Zoran PAZIN (Substitute member), Deputy Prime Minister, Minister of Justice

Morocco

- Mr Khalid NACIRI, Professor of Constitutional law, former Minister of Communication
- Mr Ahmed ESSALMI (Substitute member), Member, Constitutional Court

Netherlands

- Mr Ben VERMEULEN, Member of the Dutch Council of State, Judge in the Council of State, Professor of Education Law, Radboud University Nijmegen
- Mr Martin KUIJER (Substitute member), Senior Legal Adviser, Ministry of Security and Justice, Professor VU University Amsterdam

North Macedonia

- Ms Tanja KARAKAMISHEVA-JOVANOVSKA, Full Professor of Constitutional Law and Political System, "Iustinianus Primus" Faculty of Law, University "Sc. Cyril and Methodius"

Norway

- Mr Jan Erik HELGESEN, Professor, University of Oslo
- Mr Eirik HOLMØYVIK (Substitute member), Professor of Law, University of Bergen

Peru

- Mr José Luis SARDON DE TABOADA, Judge, Constitutional Tribunal
- Mr Eloy ESPINOSA-SALDAÑA BARRERA (Substitute member), Vice-President, Constitutional Tribunal
- Mr Carlos RAMOS NÚÑEZ (Substitute member), Judge, Constitutional Tribunal

Poland

- Mr Marcin WARCHOL, Undersecretary of State, Ministry of Justice
- Mr Mariusz MUSZYŃSKI (Substitute member), Vice-President, Constitutional Court

Portugal

- Mr Joao CORREIA, Lawyer
- Mr Paulo PIMENTA (Substitute member), Professor, Universidad Portucalense

Romania

- Mr Tudorel TOADER, Minister of Justice, Former Judge, Constitutional Court
- Mr Bogdan Lucian AURESCU (Substitute member), Professor, Faculty of Law, University of Bucharest, Member of the UN International Law Commission, Presidential Advisor for Foreign Policy, Presidential Administration

Russia

- Ms Taliya KHABRIEVA, Academician, Russian Academy of Sciences, Director, Institute for Legislation and Comparative Law
- M. Anatoli KOVLER (Substitute member), Head of the Center of Legal Problems of Integration and International Co-operation, Institute for Legislation and Comparative Law, Former judge at the European Court of Human Rights

San Marino

- Mr Francesco MAIANI, Professor of EU Law, Law Faculty, University of Lausanne

Serbia

- Mr Ćedomir BACKOVIĆ, Assistant Minister of Justice
- Mr Vladan PETROV (Substitute member), Professor, Law Faculty, Belgrade University

Slovakia

- Ms Ivetta MACEJKOVÁ, President, Constitutional Court
- Ms Jana BARICOVÁ (Substitute member), Judge, Constitutional Court

Slovenia

- Mr Ciril RIBIČIČ, Professor of Constitutional Law, University of Ljubljana, Former Justice and Vice President of the Constitutional Court
- Mr Aleš GALIČ (Substitute member), Professor, Faculty of Law, University of Ljubljana

Spain

- Mr Josep Maria CASTELLA ANDREU, Professor of Constitutional Law, University of Barcelona
- Mr Rafael RUBIO NUÑEZ (Substitute member), Deputy Director for Study and Research, Centre for Political and Constitutional Studies (CEPC), Ministry of the Presidency
- Ms Paloma BIGLINO CAMPOS (Substitute member), Full Professor of Constitutional Law, Valladolid University

Sweden

- Mr Iain CAMERON, Professor, University of Uppsala
- Mr Johan HIRSCHFELDT (Substitute member), Former President, Svea Court of Appeal

Switzerland

- Ms Regina KIENER, Professor of Constitutional and Administrative Law, University of Zurich
- Mrs Monique JAMETTI GREINER (Substitute member), Judge, Federal Tribunal

Tunisia

- Mr Ghazi JERIBI, Minister of Justice
- Ms Neila CHAABANE (Substitute member), Dean, Faculty of Legal, Political and Social Sciences of Tunis

Turkey

- Mr Yavuz ATAR, Professor of Constitutional Law, Ibn Haldun University
- Ms Melek SARAL (Substitute member), Marie Curie Research Fellow, School of Law, SOAS University of London

Ukraine

- Mr Serhiy HOLOVATY, Judge, Constitutional Court, Professor of Constitutional Law, Taras Shevchenko National University of Kyiv, President of the Ukrainian Legal Foundation

United Kingdom

- Mr Richard CLAYTON QC, Barrister at Law
- Mr Paul CRAIG (Substitute member), Professor of Law, University of Oxford

United States of America

- Ms Sarah CLEVELAND, Professor, Columbia Law School
- Ms Evelyn M. ASWAD (Substitute member), Law Professor, University of Oklahoma, College of Law

ASSOCIATE MEMBERS**Belarus**

- Ms Natallia A. KARPOVICH, Deputy Chair, Constitutional Court

OBSERVERS**Argentina**

- Mr Alberto Ricardo DALLA VIA, President, National Electoral Chamber
- Mr José Adrian PEREZ (Substitute observer), Secretary of Political and Institutional Affairs, Ministry of the Interior, Public Works and Housing

Canada

- N. N.

Holy See

- Mr Vincenzo BUONOMO, Professor of International Law

Japan

- Mr Kosuke YUKI, Consul, Consulate General of Japan in Strasbourg, liaison officer, Supreme Court

Uruguay

- M. Alvaro MOERZINGER, Ambassador, Embassy of Uruguay in the Hague

SPECIAL STATUS

European Union

European Commission

Mr Lucio GUSSETTI, Director, Legal Department

Mr Carlo ZADRA, Legal Adviser

Committee of the Regions

Mr Luc VAN DEN BRANDE, Member, Former President of CIVEX

OSCE

Office for Democratic Institutions and Human Rights

Mr Richard LAPPIN, Deputy Head of Election Department

Mr Marcin WALECKI, Head of the Democratisation Department

Ms Julia GEBHARD, Legislative Support Unit, Democratisation Department

SPECIAL CO-OPERATION STATUS

Palestine⁸¹

- Mr Ali ABU DIAK, Minister 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 Caroline MARTIN, Legal Officer

Ms Tanja GERWIEN, Legal Officer

Mr Grigory DIKOV, Legal Officer

Mr Gaël MARTIN-MICALLEF, Legal Officer

Mr Ziya Caga TANYAR, Legal Officer

Mr Michael JANSSEN, Legal Officer

Ms Svetlana ANISIMOVA, Administrator

Mr Mesut BEDIRHANOGU, Legal Officer

Ms Tatiana MYCHELOVA, External Relations Officer

Ms Helen MONKS, Financial Support Officer

Mr Hristo HRISTOV, Project Manager

Ms Zaruhi GASPARYAN, Project Officer

Ms Valeria REVA, Project Officer

Ms Brigitte AUBRY, Assistant to the Head of the Division on Democratic Institutions and Fundamental Rights

Ms Jayne APARICIO, Assistant to the Head of the Division on Constitutional Justice

⁸¹ This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of Council of Europe member States on this issue.

Mrs Vicky LEE, Assistant to the Head of the Division on Elections and Referendums
Ms Emily WALKER, Assistant to the Secretary, the Deputy Secretary and the President of the Commission
Ms Ana GOREY, Bulletin on Constitutional Case Law and CODICES
Mrs Marie-Louise WIGISHOFF, Bulletin on Constitutional Case Law
Ms Alexandra DEPARVU, Project Assistant
Ms Rosy DI POL, Project Assistant
Ms Haifa ADDAD, Project Assistant
Ms Viktoria MESHAYKINA, Project Assistant

APPENDIX IV - OFFICES⁸² AND SUB-COMMISSIONS 2018

President: Mr Buquicchio (Italy)

Honorary Presidents: Mr Paczolay (Hungary); Ms Suchocka (Poland)

Bureau

- First Vice-President: Ms Kjerulf Thorgeirsdottir

- Vice-Presidents: Ms Bílková, Mr Frendo

- Members: Ms Bazy-Malaurie, Mr Castella Andreu, Mr Kang, Ms Khabrieva

- Scientific Council:

Chair: Mr Helgesen: Vice-Chair Mr Can

Members: Mr Buquicchio, Ms Kjerulf Thorgeirsdottir, Ms Bílková, Mr Frendo, Mr Clayton, Ms Err, Mr Grabenwarter, Mr Hoffmann-Riem, Mr Jeribi, Mr Kask, Ms Kiener, Mr Tuori, Mr Velaers, Mr Vermeulen, Ms Khabrieva

- Council for Democratic Elections:

President: Mr Kask

Vice-President:

Venice Commission - Members: Mr Darmanovic, Mr Endziņš, Mr Kask, Ms Otálora Malassis
(Substitutes: Mr Barrett, Ms Biglino Campos, Mr Craig, Mr Vermeulen)

Parliamentary Assembly - Members: Mr Corneliu Mugurel Cozmanciuc, Lord Richard Balfe, Mr Tiny Kox
(Substitutes: Ms Eka Beselia, Mr Aleksander Pocij)

Congress of local and regional authorities - Members: Mr Jos Wienen, Mr Stewart Dickson
(Substitutes: Ms Dusica Davidovic, Mr Luc Martens)

- Joint Council on Constitutional Justice:

Chair: Mr Grabenwarter

Co-Chair (Liaison Officers): Ms Mirjana Stresec

Members of the Sub-Commission on Constitutional Justice (see list below) as well as 90 liaison officers from 65 Constitutional Courts or Courts with equivalent jurisdiction

SUB-COMMISSIONS

- Constitutional Justice

Chair: Mr Grabenwarter; Members: Ms Anastas, Mr Espinosa-Saldaña, Mr Harutyunian, Mr Holovaty, Mr Kang, Ms Karakamisheva-Jovanovska, Mr Kask, Ms Kjerulf Thorgeirsdottir, Mr Knežević, Ms Macejkova, Ms McMorrow, Mr Medelci, Ms Omejec, Mr Pazin, Mr Ramos, Mr Ribicic, Ms Saral, Ms Šimáčková, Mr Varga

- Federal State and Regional State:

Chair: Ms Kiener: Vice-Chair: Ms Cleveland:

Members: Mr Castella Andreu, Mr Hoffmann-Riem, Mr Maiani, Mr Scholsem, Mr Velaers, Mr Vilanova Trias

- International Law:

Chair: Mr Cameron: Vice-Chair: Mr Varga:

Members: Mr Aurescu, Ms Bílková, Ms Cleveland, Mr Hasani, Mr Maiani

⁸² From December 2017 to December 2019.

- **Protection of Minorities:**

Chair: Mr Velaers: Vice-Chair: Mr Endziņš:

Members: Mr Aurescu, Mr Habchi, Ms Karakamisheva-Jovanovska, Mr Knežević, Ms McMorrow, Mr Scholsem, Mr Tuori

- **Fundamental Rights:**

Chair: Mr Vermeulen: Vice-Chair: Mr Dimitrov

Members: Mr Aurescu, Mr Barrett, Mr Cameron, Mr Clayton, Ms Cleveland, Ms Err, Mr Esanu, Mr Hirschfeldt, Mr Hoffmann-Riem, Mr Holovaty, Ms Karakamisheva-Jovanovska, Ms Karpovich, Mr Kask, Ms Khabrieva, Ms Kjerulf Thorgeirsdottir, Mr Knežević, Mr Kuijer, Mr Maiani, Ms McMorrow, Mr Medelci, Ms Omejec, Mr Pazin, Mr Ramos, Ms Saral, Mr Toader, Mr Tuori, Mr Velaers

- **Democratic Institutions:**

Chair: Mr Tuori: Vice-Chair: Mr Meridor:

Members: Mr Cameron, Mr Darmanovic, Ms Err, Mr Esanu, Mr Frendo, Mr Hirschfeldt, Mr Hoffmann-Riem, Mr Jensen, Ms Karakamisheva-Jovanovska, Mr Kask, Ms Kiener, Mr Nicolatos, Mr Ribicic, Mr Sardon, Mr Scholsem, Mr Toader, Mr Velaers, Mr Vilanova Trias

- **Judiciary:**

Chair: Mr Barrett: Vice-Chair: Ms Omejec

Members: Mr Correia, Ms Err, Mr Esanu, Mr Habchi, Mr Hirschfeldt, Mr Hoffmann-Riem, Mr Holovaty, Mr Kang, Ms Karakamisheva-Jovanovska, Mr Kask, Ms Kiener, Mr Knežević, Mr Kuijer, Ms McMorrow, Mr Nicolatos, Mr Pazin, Ms Šimáčková, Mr Toader, Mr Tuori, Mr Ugrekhelidze, Mr Varga, Mr Velaers

- **Rule of Law:**

Chair: Mr Hoffmann-Riem: Vice-Chair: Mr Holovaty

Members: Ms Bílková, Ms Cleveland, Mr Craig, Mr Helgesen, Ms Karakamisheva-Jovanovska, Mr Kuijer, Mr Maiani, Ms McMorrow, Mr Nicolatos, Mr Tuori, Mr Ugrekhelidze, Mr Vilanova Trias

- **Working Methods:**

Chair: Mr Clayton: Vice-Chair: Mr Vilanova Trias:

Members: Mr Barrett, Mr Buquicchio, Mr Grabenwarter, Mr Helgesen, Mr Hoffmann-Riem, Ms Kiener, Ms Kjerulf Thorgeirsdottir

- **Latin America:**

Chair: Mr Sardon: Vice-Chair: Ms Otálora Malassis

Members: Ms Antunes Rocha, Ms Biglino, Ms Bílková, Mr Buquicchio, Mr Castella Andreu, Mr Castillo Viquez, Ms Cleveland, Mr Correia, Mr Cruz Castro, Mr Darmanovic, Mr Espinosa-Saldaña, Mr Hernandez Emparanza, Mr Hirschfeldt, Ms Herdis Kjerulf Thorgeirsdottir, Mr Kuijer, Ms McMorrow, Mr Mendes, Mr Ramos, Mr Vargas Valdez, Mr Vasquez Marquez

- **Mediterranean Basin:**

Chair: Mr Jeribi: Vice-Chair: Mr Medelci

Members: Mr Frendo, Ms McMorrow,

- **Gender Equality**

Chair: Ms Err: Vice-Chair: Ms Anastas

Members: Ms Chaabane, Mr Esanu, Ms Karakamisheva-Jovanovska, Ms McMorrow, Ms Omejec

APPENDIX V - PUBLICATIONS^{83 84}**Series “Science and Technique of Democracy”**

- ▶ No. 1 Meeting with the presidents of constitutional courts and other equivalent bodies¹ (1993)
- ▶ No. 2 Models of constitutional jurisdiction² (1993)
- ▶ No. 3 Constitution making as an instrument of democratic transition (1993)
- ▶ 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 law² (1993)
- ▶ No. 7 Rule of law and transition to a market economy¹ (1994)
- ▶ No. 8 Constitutional aspects of the transition to a market economy (1994)
- ▶ No. 9 The protection of minorities (1994)
- ▶ No. 10 The role of the constitutional court in the consolidation of the rule of law (1994)
- ▶ No. 11 The modern concept of confederation (1995)
- ▶ No. 12 Emergency powers² (1995)
- ▶ No. 13 Implementation of constitutional provisions regarding mass media in a pluralist democracy¹ (1995)
- ▶ No. 14 Constitutional justice and democracy by referendum (1996)
- ▶ No. 15 The protection of fundamental rights by the Constitutional Court² (1996)
- ▶ 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 States² (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)
- ▶ 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 in European case-law (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 resolution¹ (2000)
- ▶ No. 30 European integration and constitutional law (2001)
- ▶ No. 31 Constitutional implications of accession to the European Union¹ (2002)
- ▶ No. 32 The protection of national minorities by their kin-State¹ (2002)
- ▶ No. 33 Democracy, rule of law and foreign policy¹ (2003)
- ▶ No. 34 Code of good practice in electoral matters² (2003)
- ▶ No. 35 The resolution of conflicts between the central state and entities with legislative power by the constitutional court¹ (2003)
- ▶ No. 36 Constitutional courts and European integration³ (2004)
- ▶ No. 37 European and U.S. constitutionalism³ (2005)
- ▶ No. 38 State consolidation and national identity³ (2005)
- ▶ No. 39 European standards of electoral law in contemporary constitutionalism (2005)
- ▶ No. 40 Evaluation of fifteen years of constitutional practice in Central and Eastern Europe³ (2005)

⁸³ Publications are also available in French unless otherwise indicated.

⁸⁴ Publications marked with:

- “1” contain speeches in the original language (English or French);
- “2” are also available in Russian;
- “3” are only available in English;
- “4” are also available in Arabic;
- “5” are only available in electronic form;
- “6” are also available in Italian;
- “7” are also available in Spanish
- “8” are also available in Ukrainian

- No. 41 Organisation of elections by an impartial body³ (2006)
- No. 42 The status of international treaties on human rights³ (2006)
- No. 43 The preconditions for a democratic election³ (2006)
- No. 44 Can excessive length of proceedings be remedied?³ (2007)
- No. 45 The participation of minorities in public life ³ (2008)
- No. 46 The cancellation of election results ³ (2010)
- No. 47 Blasphemy, insult and hatred ³ (2010)
- No. 48 Supervising electoral processes ³ (2010)
- No. 49 Definition of and development of human rights and popular sovereignty in Europe ³ (2011)
- No. 50 10 years of the Code of good practice in electoral matters ³ (2013)

Other collections

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)

Bulletin on Constitutional Case-Law

- 1993-2018 (three issues per year)⁸⁵

Special Bulletins on Constitutional Case-Law

- Description of Courts (1999) ²
- Basic texts – extracts from Constitutions and laws on Constitutional Courts – issues No.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)²
- Freedom of religion and beliefs (1999)
- Leading cases 1 – Czech Republic, Denmark, Japan, Norway, Poland, Slovenia, Switzerland, Ukraine (2002)
- 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 of the European Court of Justice (2013)
- Descriptions of Courts (2014)
- Co-operation between Constitutional Courts in Europe (2015)⁸⁶
- Role of Constitutional Courts in upholding and applying constitutional principles (2017)
- Constitutional Principles (2018)

Annual Reports

- 1993 – 2017

Other titles

- Mass surveillance: who is watching the watchers? (2016)
- Central Asia – judicial systems overview (2016)⁸⁷

⁸⁵ From the issue 2018/1 onwards the Bulletin is available only in electronic form.

⁸⁶ Requested by the Conference of European Constitutional Courts (CECC)

⁸⁷ Available only in Russian; “Introduction” also in English

- ▶ Main documents of the Venice Commission in the field of electoral law and political parties (2016)⁸⁸
- ▶ Electoral opinions on Ukraine and general reports in the electoral field – Part I, Part II (2016)⁸⁹
- ▶ Joint OSCE/ODIHR – Venice Commission Guidelines on Fundamental rights (2015)⁴
- ▶ Freedom of Association – joint OSCE/ODIHR – Venice Commission Guidelines (2015)^{2, 4}
- ▶ 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 2010)⁵
 - 8th Conference on Elections in a changing world (Vienna, 2011)⁵

Brochures

- ▶ 10th anniversary of the Venice Commission (2001)
- ▶ Revised Statute of the European Commission for Democracy through Law (2002)
- ▶ UniDem (Universities for Democracy) Campus – Legal training for civil servants (2003)⁶
- ▶ 20th Anniversary – Publications (2010)
- ▶ Selected studies and reports (2010)
- ▶ Key Facts (2011)^{2, 7}
- ▶ Services provided by the Venice Commission to Constitutional Courts and equivalent bodies (2011)
- ▶ Code of Good Practice in Electoral Matters (2016)^{2, 4, 7}
- ▶ Main reference texts of the Venice Commission (2013)⁴
- ▶ The Venice Commission of the Council of Europe (2014)⁴
- ▶ UniDem (Universities for Democracy) Campus for the Southern Mediterranean countries (2015, 2017)⁴
- ▶ Rule of Law Checklist (2016)^{2, 4, 8}
- ▶ Preventing and responding to the misuse of administrative recourses during electoral processes – Joint guidelines (2017)²
- ▶ European Conference of Electoral Management Bodies (2017)²
- ▶ Venice Commission: cooperation with Constitutional courts (2017)^{2, 7}
- ▶ Reference texts in the field of judiciary (2017)
- ▶ The Venice Commission of the Council of Europe – 2017 Key facts

⁸⁸ Available only in Russian

⁸⁹ Available only in Ukrainian

APPENDIX VI - DOCUMENTS ADOPTED IN 2018

114th plenary session (Venice, 16-17 March 2018)

CDL-AD(2018)001	"The former Yugoslav Republic of Macedonia" (see footnote 25) - Opinion on the Draft law on Prevention and Protection against Discrimination
CDL-AD(2018)002	Armenia - Joint Opinion ⁹⁰ on the Draft Law amending the Law on Freedom of Conscience and on Religious Organisations
CDL-AD(2018)003	Republic of Moldova - Opinion on the law on amending and supplementing the Constitution (Judiciary)
CDL-AD(2018)004	Romania - Joint Opinion on Draft Law No. 140/2017 on amending Governmental Ordinance No. 26/2000 on Associations and Foundations
CDL-AD(2018)005	Georgia - Constitutional amendments as adopted at the second and third hearings in December 2017
CDL-AD(2018)006	Ukraine - Joint Opinion on Draft Law No. 6674 "On Introducing Changes to Some Legislative Acts to Ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance" and on Draft Law No. 6675 "On Introducing Changes to the Tax Code of Ukraine to Ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance"
CDL-AD(2018)007	Republic of Moldova - Opinion on the Draft Law on the modification of Article 42 of the Constitution of the Republic of Moldova regarding Freedom of Association
CDL-AD(2018)008	Republic of Moldova - Joint Opinion on the law for amending and completing certain legislative acts (Electoral system for the election of Parliament)
CDL-AD(2018)009	Report on the identification of electoral irregularities by statistical methods
CDL-AD(2018)010	Report on Term Limits - Part I - Presidents

115th plenary session (Venice, 22-23 June 2018)

CDL-AD(2018)011	Serbia - Opinion on the draft amendments to the constitutional provisions on the judiciary
CDL-AD(2018)012	Georgia - <i>Amicus curiae</i> brief for the Constitutional Court of Georgia on the effects of Constitutional Court decisions on final judgments in civil and administrative cases
CDL-AD(2018)013	Hungary - Joint Opinion on the Provisions of the so-called "Stop Soros" draft Legislative Package which directly affect NGOs (in particular Draft Article 353A of the Criminal Code on Facilitating Illegal Migration)
CDL-AD(2018)014	Malta - Opinion on the draft act amending the Constitution, on the draft act on the human rights and equality commission, and on the draft act on equality
CDL-AD(2018)015	Montenegro - Opinion on the draft law on amendments to the law on the Judicial Council and Judges

⁹⁰ "Joint Opinion" refers to opinions drafted jointly by the Venice Commission and the OSCE/ODIHR unless specified otherwise.

CDL-AD(2018)016 **Kosovo** - Opinion on the “draft law on amending and supplementing the Law no. 03/l-174 on the Financing of Political Entities (Amended and Supplemented by the Law no. 04/l-058 and the Law no. 04/l-122) and the Law no. 003/l-073 on General Elections (Amended and Supplemented by the Law no. 03/l-256)”

116th plenary session (Venice, 19-20 October 2018)

CDL-AD(2018)017 **Romania** - Opinion on draft amendments to Law No. 303/2004 on the Statute of Judges and Prosecutors, Law No. 304/2004 on Judicial Organisation, and Law No. 317/2004 on the Superior Council for Magistracy

CDL-AD(2018)018 **Rules of Procedure**

CDL-AD(2018)019 Protocol on the **Preparation of Urgent Opinions**

CDL-AD(2018)020 **Kazakhstan** - Opinion on the Administrative Procedure and Justice Code

CDL-AD(2018)021 **Romania** - Opinion on draft amendments to the Criminal Code and the Criminal Procedure Code

CDL-AD(2018)022 **“The former Yugoslav Republic of Macedonia”** (see footnote 25) - Opinion on the Law amending the Law on the Judicial Council and on the law amending the law on Courts Opinion on Article XXV of 4 April 2018 on the Amendment of Act CCIV of 2011 on National Tertiary Education

CDL-AD(2018)023 **Serbia** - Secretariat memorandum - Compatibility of the draft amendments to the Constitutional Provisions on the Judiciary of Serbia

CDL-AD(2018)024 **Republic of Moldova** - Opinion on the Law on preventing and combating terrorism

CDL-AD(2018)025 **Tunisia** - Opinion on the draft institutional law on the organisation of political parties and their funding

CDL-AD(2018)026 **Albania** - Joint Opinion on the draft law on the legislative initiative of the citizens

CDL-AD(2018)027 **Uzbekistan** - Joint Opinion on the draft election code

117th plenary session (Venice, 14-15 December 2018)

CDL-AD(2018)028 **Malta** - Opinion on Constitutional arrangements and separation of powers

CDL-AD(2018)029 **Georgia** - Opinion on the provisions on the Prosecutorial Council in the draft Organic Law on the Prosecutor's Office and on the provisions on the High Council of Justice in the existing Organic Law on General Courts

CDL-AD(2018)030rev Report on **Separate Opinions of Constitutional Courts**

CDL-AD(2018)031 **Turkey** - Joint Opinion on Amendments to the electoral legislation and related "harmonisation laws"

CDL-AD(2018)032 **Kazakhstan** - Opinion on the Concept Paper on the reform of the High Judicial Council

CDL-AD(2018)033 **"The former Yugoslav Republic of Macedonia"** (see footnote 25) - Opinion on the draft amendments to the Law on Courts

- CDL-AD(2018)034 **Albania** - Opinion on draft constitutional amendments enabling the vetting of politicians
- CDL-AD(2018)035 **Hungary** - Joint Opinion on Section 253 on the special immigration tax of Act XLI of 20 July 2018 amending certain tax laws and other related laws and on the immigration tax