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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

VISIT OF A DELEGATION OF THE VENICE COMMISSION TO BELARUS

(Minsk 26-27 June 2003)

Synopsis

On 26-27 June 2003, a delegation of the Venice Commission visited Belarus. The delegation was composed of Mr. Lopez Guerra, Professor at the University Carlos III in Madrid and former Vice-President of the Constitutional Court of Spain, Mr. Russell, former member and President of the Sub-Commission on Constitutional Justice of the Venice Commission and Mr. Vogel, member of the Commission and Professor at the University of Lund, Sweden, the Secretary of the Commission, Mr Buquicchio, and Mr Dürre from the Secretariat. The visit had been organised following a request by the Conference of European Constitutional Courts inviting the Venice Commission to resume co-operation with the Constitutional Court of Belarus and to inform the Conference on this co-operation in view of an application by the Court for full membership with the Conference. The Conference of European Constitutional Courts is an independent body uniting practically all European constitutional courts (<http://www.confcoconsteu.org>). The co-operation between the Constitutional Court of Belarus and the Venice Commission had been suspended following the constitutional referendum in 1996.

During the first day of the visit, the delegation participated in the Conference on "Strengthening of the Principles of a Democratic State Ruled by Law in the Republic of Belarus by Way of Constitutional Control". At the Conference, the delegation presented *inter alia* a critical evaluation of the Constitution currently in force, which was hotly debated. The delegation also learned that even though the Constitution and the Law on the Constitutional Court provided only for appeals from state bodies like the President of the Republic, Parliament or the Government, the Constitutional Court had in fact extended its jurisdiction to allow appeals also from individuals. The Court had based this extension and the ensuing human rights case-law *inter alia* on articles of the Constitution, which provide that individuals can make petitions to any state body including courts.

During the second and third days of the visit, the delegation met with the Ministers of Foreign Affairs and Justice, the *Chargé d'affaires* of the Embassy of Moldova, holding the Presidency in the Committee of Ministers of the Council of Europe, the OSCE Mission in Belarus and the Belarus Helsinki Committee. During the meetings with the authorities, the delegation insisted that any co-operation could take place only on the basis of concrete issues. In this respect, the delegation took good note that shortly before the visit Belarus had submitted draft laws on the Parliament and on the ombudsman to the Commission for opinion. The delegation also reminded the authorities that the Council of Europe was still waiting for the promised submission of the Law on the Media for expertise.

Taking note of an open attitude towards European integration of several of its interlocutors, the delegation concluded that bodies like the Constitutional Court willing to make progress towards democratisation should be encouraged and assisted given the delicate political context of their endeavour.