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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**MEETING BETWEEN THE VENICE COMMISSION
AND THE ARMENIAN AUTHORITIES
ON THE CONSTITUTIONAL REFORM PROCESS
(STRASBOURG, 23-24 JUNE 2005)**

**AGREED CONCLUSIONS
AND FOLLOW-UP**

I. Introduction

- 1. On 11 May 2005, the draft amendments to the Armenian Constitution were adopted by the National Assembly in the first reading.*
- 2. In the opinion of the Venice Commission's working group, important changes needed to be made, notably in three areas: separation of powers, independence of the judiciary and the manner of appointment of the Mayor of Yerevan (see Second Interim Opinion on Constitutional Reforms in Armenia, CDL-AD(2005)016).*
- 3. On 23-24 June 2005, a working meeting took place in Strasbourg, at which the Venice Commission's working group, composed of Messrs Endzins, Tuori and Vlad Constantinescu, and representatives of the Armenian authorities (see the appended list of participants) discussed and agreed on how to improve the amendments.*
- 4. The mutually acceptable conclusions which were reached in the course of this meeting, together with the agreed follow-up, are set out in the present document.*

II. Constitutional reforms : conclusions

A. Human Rights

Ombudsperson

5. The definition in Article 83.1 will set out the guarantees of independence and inamovibility of the Human Rights Defender.
6. Article 83 § 4 will contain the requirement of a majority of 3/5 of the deputies for appointing the HR Defender.
7. The mandate will be of 6 years.

Freedom, independence and plurality of the media

8. The principle of involvement of the National Assembly in the process of nomination of the members of the media regulatory authorities is accepted.
9. The Armenian authorities will submit a concrete proposal in this sense.

B. Separation of powers

Presidential immunity

10. Article 56.1 will be redrafted so as it respects the two following principles:
 - a) that the President enjoys functional immunity
 - b) that during his or her term of office, he or she cannot be prosecuted unless through a special procedure of impeachment.

Extraordinary sittings and sessions of the NA

11. The Chair of the National Assembly will convene parliamentary sessions upon the request of:
1/3 of the deputies; or
the government, or
the President of the Republic.

Formation of government.

12. The President of the Republic will not retain the power to dismiss the Prime Minister. This can only be done by the National Assembly through a vote of non-confidence.
13. The President's power to dissolve the National Assembly under paragraph 2 of Article 74.1 will be limited (for example by involving the Speaker of the National Assembly or a certain percentage of deputies or the government).
14. The President of the Republic will appoint as Prime Minister he or she who enjoys the confidence of the majority of the deputies (see Article 97 of the Croatian Constitution)
15. The President will be entitled to propose to the National Assembly the dissolution of the government.

Sittings of the government

16. The President will retain the power, under Article 86 § 2, to convene and chair sittings of the government in connection with foreign policy, defence and state security issues only.

Foreign policy

17. The President and the Government will work out jointly the foreign policy.

C. Independence of the Judiciary

Prosecutor General

18. The appointment and dismissal of the deputies of the Prosecutor General will be done upon the recommendation by the Prosecutor General.

Appointment and dismissal of judges

19. The Constitution will specify that the President cannot appoint or dismiss someone unless upon a recommendation of the Judicial Council to this effect. The mechanisms of appointment and dismissal of judges will be determined by the law.

Judicial Council

20. The sittings of the Judicial Council will be chaired by the Chairman of the Cassation Court but without a right to vote.

4. Local self-government

21. The Constitution will recognise the principle that Yerevan is a local self-government unit and the need for the Mayor of Yerevan to be elected in pursuance of the European principles of local self-government. The Constitution will refer to the law for the regulation of the specific features of the manner of election.

22. The President's power to appoint the Mayor of Yerevan will be deleted from Article 88.1.

5. Amendments to the Constitution

23. Article 113 will be amended by reducing the number of registered voters from 1/3 to 1/4.

6. Transitional provisions

24. Article 115 will be deleted. Certain provisions of the Constitution (at least those concerning human rights, the Human Rights Defender and the Judiciary) will enter into force immediately or as soon as practicable.

7. Constructive vote of no-confidence

25. The possibility of introducing a constructive vote of no-confidence will be examined by the Armenian authorities.

III. Follow up

26. Mr Torossyan is to submit to the Venice Commission, **no later than on 7 July 2005**, the revised text of the amendments which it is proposed to submit to the National Assembly for the second reading. This text will reflect the conclusions contained in this document.

27. It is understood that the final text will globally respect the principle of checks and balances.

28. The Venice Commission's working group is to assess this revised text and to submit this assessment to the Armenian authorities **no later than on 20 July 2005**.

29. The Armenian authorities are to make any further amendment and improvement which may be required by the Venice Commission's working group and subsequently submit the final text to the National Assembly for its second reading **before the end of August 2005**.

30. The third reading should take place as soon as practicable thereafter.

31. The constitutional referendum should take place in **November 2005**.

APPENDIX

LIST OF PARTICIPANTS

ARMENIA

Mr Armen HARUTYUNYAN, Representative of the President of the Republic of Armenia, Substitute member of the Venice Commission

Mr Davit HARUTYUNYAN, Minister, Ministry of Justice of the Republic of Armenia

Mr Tigran TOROSYAN, Deputy Chairman, National Assembly of the Republic of Armenia

Mr Vostanik MARUKHYAN, Deputy of the National Assembly of the Republic of Armenia

Mr Mher SHAHGELDYAN, Deputy of the National Assembly of the Republic of Armenia

Mr Wartan POGOSYAN, NGO “Democracy”

VENICE COMMISSION

Mr Aivars ENDZINS, President of the Constitutional Court of Latvia, Member of the Venice Commission

Mr Kaarlo TUORI, Professor, Department of Public Law, University of Helsinki, Finland, Member of the Venice Commission

Mr Vlad CONSTANTINESCO, Professor, Institute of Political Studies, Strasbourg

Mr Gianni BUQUICCHIO, Secretary of the Venice Commission

Ms Simona GRANATA-MENGHINI, Head of the Constitutional Co-operation Division

Ms Dubravka BOJIC, Administrative Officer, Constitutional Co-operation Division

COUNCIL OF EUROPE SECRETARIAT

Mr Christophe POIREL, Deputy to the Secretary to the Committee of Ministers

Ms Bojana URUMOVA, Special Representative of the Secretary General in Armenia

INTERPRETERS

Ms Tatiana LIACHENKO-ENTINA

Mr Taras KOBUSHKO