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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

in co-operation with
THE CONSTITUTIONAL COURT OF GEORGIA

CONFERENCE

on the

**Protection of electoral rights and
the right to political associations
by the Constitutional Court**

10-11 February 2006
Tbilisi, Georgia

SYNOPSIS

The Venice Commission organised, in cooperation with the Constitutional Court of Georgia and the Information Office of the Council of Europe in Tbilisi, a conference on “The protection of electoral rights and the right to political association by the Constitutional Court” (Tbilisi, 10-11 February 2006).

The delegation of the Council of Europe was composed of Mr James Hamilton, Irish substitute member of the Venice Commission, Mr Bernard Owen, Secretary General of the Centre of Comparative Studies of Elections (Paris I University), Mr Gianni Buquicchio, Secretary of the Venice Commission and Ms Tatiana Mychelova, External Relations officer of the Venice Commission.

Among the local participants were judges and staff of the Constitutional and Supreme Courts, members of Parliament, representatives of the Office of the Public Defender, a representative of the Russian Embassy in Georgia, UNDP, OSCE, ABA/CEELI as well as local NGOs and academics. Members of the Central Election Commission were invited but were unable to participate due to prior engagements.

During the Conference the forms of direct and representative democracy in Georgia, legal guarantees for the protection of the right to vote and the right to political association in Georgian legislation and in the ECHR were presented and discussed. As for the Georgian legislation and practices several critical points were raised by the speakers and other participants, particularly as regards the legislation on referendums, electoral appeals to the Constitutional Court and implementation of the legislation and courts’ decisions. As for the referendums, a broader scope of issues/questions could be decided by referendum, perhaps excluding laws due to the complex nature of the texts. For example, the autonomous Status of Adjara could have been decided upon by referendum; perhaps also the 2004 constitutional amendments, which were adopted without a public discussion. At the same time, the law on referendums as such would need a revision. In addition, according to some participants, the implementation of the results of referendums was problematic too. It was pointed out that the present Electoral Code of Georgia is too long and detailed. In addition, as some participants suggested, some of its provisions contradict other existing laws, for example, the Civil and Administrative Codes, and even to some extent, the voting rights guaranteed by the articles 49 and 50 of the Constitution. It was also mentioned that pluralism of political views was not developing properly in Georgia.

It was pointed out that the implementation of laws, even if they were not perfect, is as important as the quality of the laws. The judiciary could rectify the existing lacunas, but at present the impartiality/independence of courts was still questionable in Georgia. The need for training for judges and members of the electoral commissions was thus still acute.

Media presence at the Conference was substantial as the event was held the day after the visit of the Venice Commission to Georgia in the framework of its opinion on the draft law on rehabilitation and restitution of property to the victim of the Georgian-Ossetian conflict. Georgian translations of documents on the Council of Europe in general and the Venice Commission, including the Code of Good practice in Electoral matters, were distributed at the conference thanks to the efforts of the Information Office of the Council of Europe in Tbilisi.

The proceedings of the conference will be published by the Constitutional Court of Georgia.