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(VENICE COMMISSION)

119th PLENARY SESSION
Venice, Scuola Grande di San Giovanni Evangelista
Friday, 21 June - Saturday, 22 June 2019

119e SESSION PLÉNIÈRE
Venise, Scuola Grande di San Giovanni Evangelista
Vendredi 21 juin- Samedi 22 juin 2019

SESSION REPORT/RAPPORT DE SESSION

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1. Adoption of the Agenda

The agenda was adopted without any amendments (CDL-PL-OJ(2019)002ann)

2. Communication by the President

The President welcomed members, special guests and delegations and presented his recent activities, as set out in document CDL(2019)022.

In particular the President informed the Commission that Canada had become a member State of the Commission on 12 June and that Mr Warren Newman had been appointed as the individual member.

3. Communication from the Enlarged Bureau

M Markert informed the Commission that at its meeting of 20 June the Enlarged Bureau had discussed three issues. The first relating to the Commission's working methods would be the object of a separate agenda item. The second item related to the situation in Armenia and would also be examined under a separate agenda item; in this connection the Enlarged Bureau had expressed the view that the Commission should authorise the preparation of an urgent opinion on the reform of the judicial code, upon a possible request by the Armenian authorities.
The third item related to the request made by the Dutch parliament to prepare an opinion on the possibility for it to control the activities of the European Union and in particular of the different institutions of the Eurozone. This request appeared to be on the margins of the Venice Commission's competences. The Enlarged Bureau did not take a final decision, since the Dutch parliament had asked to be given the opportunity to explain the grounds and terms of this request at the next meeting of the Enlarged Bureau. However, the Enlarged Bureau expressed great scepticism as to whether to enter into the law of the EU; the Commission might be able to carry out a comparative study of the national legislation regarding the rules and procedures of control by the national parliaments of the activities of the European Union or rather of the role played by the national governments within the EU institutions.

4. Communication by the Secretariat

Mr Markert provided logistic information on the session.

He further informed the Commission that the Monitoring Group of the Anti-doping Committee of the Council of Europe had decided to establish an ad Hoc Group of Experts on "Ensuring effective access to justice and fair trial to athletes" in the context of the fight against doping. The group had invited the Venice Commission to be represented at the Group's meetings. Mr Markert invited members who had specific knowledge and experience of these issues to express their interest.

5. Co-operation with the Committee of Ministers

Ambassador Aleksandra Djurović, Permanent Representative of Serbia to the Council of Europe, stressed that in the previous 29 years, the Venice Commission had been a main authority in the field of legal advice, providing a useful expertise throughout Europe and beyond. The Venice Commission in particular had provided valuable support to Serbia in order to further establish and protect the effective functioning of the rule of law in the country's legal system. Finally, the Ambassador underlined the appreciation of Serbia's authorities with regard to the Venice Commission's opinion on the draft amendments to the constitutional provisions on the judiciary, a very important opinion especially in the context of Serbia's EU accession negotiations.

Ms Kara McDonald, Consul General, Deputy Permanent Observer of the United States of America to the Council of Europe, referred to the participation of the United States of America in a number of bodies and instruments of the Council of Europe, aiming to amplify the values of the Organisation, globally. The values promoted by the Venice Commission's opinions had contributed to European peace and prosperity. Ms McDonald welcomed the Committee of Ministers' decision of 12 June 2019 to accept Canada as a full member of the Venice Commission, recalling that membership of countries beyond Europe in the Commission broadens its perspective by focusing on UN and other international instruments, which are relevant to non-European member states. The Venice Commission was also expanding its co-operation with other international institutions beyond Europe, such as the Organization of American States, which was to be welcomed. Ms McDonald finally underlined that Venice Commission opinions serve as instrumental tools for the United States' bilateral diplomacy on a wide range of issues related to constitutional, electoral, and judicial reforms.

6. Co-operation with the Parliamentary Assembly

Sergiy Vlasenko, Member of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, informed the Commission that since March 2019 the Committee had adopted reports on the international fight against organised crime, corruption and money-laundering, on Boris Nemtsov's murder, on Daphne Caruana Galizia's assassination, and an opinion on the "Establishment of a European Union mechanism on democracy, the rule of law and fundamental rights". Mr Vlasenko also indicated that the Committee had held hearings on the implementation of judgments of the European Court of Human Rights, on Ms Caruana Galizia's case, on "Improving the protection of whistle-blowers all over Europe" and on "Ombudsman Institutions in Europe – the need for a set of common standards".

Regarding the Monitoring Committee's activities, Mr Vlasenko stressed that the Committee had held exchanges or hearings regarding the following member states: Azerbaijan, Bosnia and Herzegovina, Bulgaria, Georgia, Poland, Serbia, Spain, Turkey and Ukraine. He finally indicated that the Committee had adopted an opinion on the establishment of a European Union mechanism on democracy, the rule of law and fundamental rights.

7. Co-operation with the Congress of Local and Regional Authorities of the Council of Europe

Mr Leen Verbeek, Chair of the Congress Monitoring Committee, informed the Commission that the Congress had adopted during its spring session several country-specific monitoring reports, including a report on local and regional democracy in Moldova. He underlined that the Venice Commission's report on the recall of mayors and local elected representatives in reply to the Congress request was of the utmost importance for the Congress, considering the regular extensive references made by the Congress to the Venice Commission's expertise on constitutions and the legislation of Council of Europe member States in its monitoring and electoral activities. Mr Verbeek also informed the Commission on country visits in Armenia and Portugal, and the observation of the mayoral re-run elections in Istanbul. Mr Verbeek welcomed the adoption of the Venice Principles on Ombudspersons and indicated that the Congress would discuss a draft resolution to be submitted for adoption at the next Congress session in October so that the Congress, like the Committee of Ministers and Parliamentary Assembly, would endorse this text.

Mr Andreas Kiefer, Secretary General of the Congress, first recalled the importance of the adoption of the Venice Commission's report on the recall of mayors and local elected representatives; he was of the view that, based on the experiences in the monitoring of local democracy in Council of Europe member states, the recall of mayors should be avoided. Mr Kiefer also underlined the importance of the observation of the mayoral re-run elections in

Istanbul and recalled on this occasion a number of problematic issues raised by observers and the possibility that the Venice Commission could provide a post-electoral legal assessment. Finally, the Congress might initiate a discussion on "international standards for the rerun of elections" in the framework of the Council for Democratic Elections.

8. Co-operation with the Council of Europe Development Bank

Mr Rolf Wenzel, Governor of the Council of Europe Development Bank, recalled the long experience of the Bank in social development financing as well as the Bank's Development Plan 2020-2022, aimed at guiding the member states towards incorporating the UN Sustainable Development Goals into their policy framework, especially in the economic, social and environmental interconnected aspects. Mr Wenzel also stressed the support provided by the Bank to member States in the area of environmental sustainability as well as in microfinance, through the provision of funds to micro-enterprises. Finally, Mr Wenzel underlined the benefit of the work of the Venice Commission for the Bank's projects, the Commission participating in the reinforcement of transparent, independent institutions and procedures in its member states.

9. Follow-up to earlier Venice Commission opinions

The Commission was informed on follow-up to:

> *Hungary - Opinion on the law on administrative courts and the law on the entry into force of the law on administrative courts and certain transitional rules (CDL-AD(2019)004)*

When this opinion was adopted at the March session, the Minister of Justice of Hungary, Mr Trocsanyi, indicated that several of the main recommendations of the Venice Commission would be addressed through amendments to the legislation. Amendments were indeed adopted, which substantially improved in particular the procedure for appointing judges to these courts by providing for the possibility of judicial review of the nomination decisions of the Minister of Justice. It was, however, not very clear in the text of the amended law whether these amendments were also applicable to the procedure of appointing judges during the transitional period, when a particularly high number of judges would be appointed. In an exchange of letters with the President of the Venice Commission, published on the Commission's website, Minister Trocsanyi confirmed that, according to the interpretation of the Ministry, the amendments were also applicable during the transitional period.

However, at the end of May, the Hungarian authorities announced that the establishment of the administrative court system would be suspended for an indefinite period.

> *Malta - Opinion on Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement (CDL-AD(2018)028)*

The adoption of the Opinion in December 2018 triggered an intense discussion in Malta. The Prime Minister publicly stated that the Opinion would be fully implemented. A committee on constitutional reform which is to examine the recommendations made in the Opinion was established under the Chairmanship of the President of Malta. Even though the opposition called for a stay of new judicial appointments until the system was reformed, several appointments had nonetheless been made since the adoption of the Opinion. As a measure to implement the Commission's recommendation to concentrate the powers of prosecution (currently shared between the Police and the Attorney General - AG) in an independent Director of Public Prosecutions and to separate the functions of prosecution and legal advisor of the AG, the Minister of Justice presented a bill that would shift the AG's advisory powers to a new State Advocate. The opposition and civil society complained that this bill would not give sufficient independence to the prosecution as had been recommended by the Opinion. An important point

in this discussion is what the Venice Commission's Opinion exactly recommended on this point. A request for an opinion to the Commission on the pending bill could solve this issue.

Principes sur la protection et la promotion de l'institution du Médiateur (« les Principes de Venise ») (CDL-AD(2019)005)

Les principes sur la protection et la promotion de l'institution du Médiateur (« les Principes de Venise », CDL-AD (2019)005) adoptés par la Commission lors de sa 118e session plénière (15-16 mars 2019) ont été entérinés par le Comité des Ministres, lors de la 1345e réunion des Délégués des Ministres, le 2 mai 2019.

Le Comité des Ministres a invité les gouvernements, les parlements et les autres autorités compétentes des États membres à prendre en compte ces Principes et à en assurer une large diffusion au sein des milieux concernés et a invité le Secrétaire Général à les transmettre aux autres organisations internationales pour information.

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)

In its Opinion of March 2018, the Venice Commission recommended cancelling the e-declaration requirements for anti-corruption activists introduced by law of 23 March 2017, as foreseen by draft law No. 6674, and at the same time removing the new financial reporting and disclosure requirements under draft laws No. 6674 and 6675 in their entirety or, at a minimum, narrowing them down substantially. The two draft laws were never adopted. However, attempts in Parliament to modify as recommended the current law failed. As a consequence, anti-corruption activists were obliged to submit electronic asset declarations from 1 January 2018.

However, on 6 June 2019 the relevant provisions of the Law on the Prevention of Corruption were declared unconstitutional by the Constitutional Court of Ukraine and thus lost their validity from the day of the adoption of the judgment, upon appeals made by the Ombudsperson and by 65 MPs. The Constitutional Court found a violation of the rule of law principle (lack of legal certainty) and stressed that measures of control over associations and their members, who do not exercise public powers and are not financed from public funds, should not be of excessive character and not limit freedom of political or civic activities in a disproportionate manner. The Court referred, *inter alia*, to the Joint Opinion and to the Venice Commission's Report on the Rule of Law. As a consequence of the judgment, the law is now in compliance with the recommendations of the Venice Commission: the e-declaration requirements for anti-corruption activists have been cancelled and no new financial reporting and disclosure requirements have been introduced.

Ukraine - Amicus Curiae Brief on separate appeals against rulings on preventive measures (deprivation of liberty) (CDL-AD(2019)001)

Mr Holovaty informed the Commission that the Constitutional Court of Ukraine had decided a case covered by the scope of the *amicus curiae* brief. Referring to the brief, the Court noted that in its Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards, the Committee of Ministers of the Council of Europe had established standards that went even further than the case-law of the European Court of Human Rights. The Constitutional Court found that the lack of a procedure in Ukraine's domestic law for an individual to appeal against first instance court rulings on preventive measures before the case is resolved on the merits violated the Ukrainian Constitution.

North Macedonia - Opinion on the Draft Law on the Judicial Council (CDL-AD(2019)008); North Macedonia - Opinion on the draft amendments to the Law on Courts (CDL-AD(2018)033)

The amendments introduced into these two laws in 2018 and 2019 were in line with the Venice Commission's recommendations expressed in the previous opinions. The system of disciplinary proceedings and performance evaluations is simpler and more internally coherent. On some issues it is important to see how the two laws would be implemented in practice. This concerns, for example, the limited role of the Appeals Council in the disciplinary proceedings, the majorities needed to take certain decisions, and the system of attribution of points within the performance evaluation process. As noted in the previous opinions, it is now time for fine-tuning of the rules at the sub-legislative level, and for observing, over a period of two or three years, how the new system functions.

10. Georgia

Mr Atar introduced the urgent Opinion for Georgia on the selection and appointment of Supreme Court judges requested on 11 March 2019 by the Chairperson of the Parliament of Georgia and tabled for endorsement pursuant to Article 14 of the Venice Commission's Rules of Procedure. The request for an urgent opinion was made as a result of the incomplete composition of the Supreme Court of Georgia, which currently has 11 judges (and will only have eight judges by the beginning of July 2019) and should be composed of 28 judges according to Article 61.2 of the new Constitution. At the 118th Plenary Session, on 15-16 March 2019, the Commission authorised the rapporteurs to issue an urgent opinion. Stressing that the Venice Commission is in no position to evaluate whether or not the current lack of trust in the High Council of Justice in Georgia is warranted, Mr Atar highlighted, as a general recommendation, that Parliament should presently only appoint the number of Supreme Court judges that is absolutely necessary to render the work of the Supreme Court manageable. The number of new judges needed should be decided after consultations with the Supreme Court. Further appointments would then be made by the Parliament elected at the next general elections. Such an arrangement may both alleviate the present burden on the Supreme Court and ensure that it enjoys the public trust and respect it deserves in the long run.

Mr Atar then focussed on a number of improvements to be made for the selection and appointment of Supreme Court judges in Georgia with regard to the draft amendments. Firstly, concerning Article 1/1-B of the Draft Amendments to the Organic Law on Common Courts, stipulating age and experience requirements, the formal thresholds are considered to be low and more emphasis on experience as well as judgment, independence and diversity should be provided in the criteria in general as well as a higher age requirement. Secondly, pursuant to the amended Paragraph 8 of the Draft Law, the requirement for non-judge candidates to have passed the judicial qualification examination should be reconsidered, because only "specialist[s] of distinguished qualification in the field of law" may be non-judge candidates for the Supreme Court. Persons with such qualifications should not be forced to sit an examination. Thirdly, according to the draft Law, within the process, the High Judicial Council will conduct a secret ballot to shortlist applicants and will later conduct a second secret ballot for the final list of nominees. In addition, there seems to be no provision requiring the High Judicial Council to publish the selection criteria to be applied in the process or to provide reasoning. Conducting secret ballots in the High Judicial Council did not dispense the Council from providing reasons. The secret ballot should be conducted on the basis of a reasoned proposal (see clarification in paragraph 34 of the urgent opinion).

In addition to this, information regarding the qualifications of candidates should be made public and the procedure should be based on the objective criteria on which each candidate is evaluated, producing a pool of candidates who satisfy these criteria. Within this pool, the

candidates should be ranked according to the scores they have obtained during the evaluation procedure. This will enable a list of the best candidates to be presented to the Parliament.

Reasoned decisions regarding the selection and exclusion of candidates must be produced, with the possibility for a judicial appeal.

Fourthly, it is a welcomed improvement that according to the Draft Amendment, members of the High Judicial Council, who are candidates for judges of the Supreme Court, will not have the right to vote during the selection process. However, in order to avoid any perception of a conflict of interest, a member of the High Judicial Council, who is a candidate for a judge of the Supreme Court, should be excluded from all procedures pertaining to the selection and nomination of candidates.

The Commission endorsed the urgent Opinion for Georgia on the selection and appointment of Supreme Court judges, with one additional clarification in paragraph 34 explaining that secret ballots in the appointment process of Supreme Court judges are not an obstacle to the proposals for appointment being reasoned (CDL-AD(2019)009).

11. Republic of Moldova

Mr Dimitrov stressed at the outset that this opinion presented extensively the facts and the pertinent domestic law, because they were essential to understand and analyse the constitutional crisis in question. The Constitutional court had considered that parliament needed to be dissolved because the government had not been formed within a deadline of 90 days (not of three calendar months), but the President had not done so as a new government had in fact been formed. With a succession of several judgments delivered over one weekend, the Court had annulled all the acts performed and to be performed by the newly elected parliament and had temporarily suspended the President, appointed the outgoing Prime Minister as acting President and instructed him to dissolve parliament and call early elections. This crisis seemed however to have ended a few days before the session when the Constitutional Court had reviewed and annulled such contested judgments.

The opinion pointed to three issues: 1. the proceedings before the Constitutional court had violated the court's own rules of procedure and had violated the right of the parliament and the president to participate in an adversarial procedure; 2. The Court's position that the President ought to have dissolved parliament irrespective of the fact that a new government had been created could not be supported: the constitution provides that the President, following consultation with the parliamentary factions, "may" dissolve parliament after three months if a government has not been formed. This is not and cannot be an obligation: the President is given leeway to exercise his own judgment and discretion taking into account the situation in the interest of the country as a whole; the right to dissolution is an ultima ratio means to solve a constitutional crisis: if there exist other means, notably if a government has been formed, the President should not exercise this right; 3. The three-month time-limit to form the new government had in an unprecedented manner been shortened to 90 days.

Mr Dimitrov reminded that a Constitutional Court should always enjoy institutional respect; it should however maintain equal distance from all branches of power. While taking note of the annulment by the Constitutional Court of Moldova of its own controversial decisions, he stressed that the reversal by a Court of its own decisions should remain exceptional and be based on new facts.

Mr Radu Marian, MP from the ACUM Coalition – PAS addressed the Commission and also spoke on behalf of Mr Liviu Vovc, MP from the ACUM coalition – DA, as well as Mr Maxim Lebedinschi, Advisor to the President of the Republic and Mr Fadei Nagacevischi, Legal Adviser to the Socialist Party. He stressed that the judgments of the Constitutional Court had been instrumental to producing the crisis instead of solving it. Several problems had occurred, which included the abusive interpretation of the three-month time-limit to form a new government; the interpretation of the Constitution, against its own wording, that the President is obliged to dissolve parliament after 90 days; the extreme speed and lack of procedural guarantees in the proceedings relating to these judgments; 3 of the 6 judges were appointed by the Democratic Party only a couple of months before the facts; the suspension of the President was not grounded in the Constitution.

As a consequence, according to Mr Marian the Constitutional Court had lost all public confidence. It would be a priority of the new parliament to address the lack of independence of the justice system of Moldova. He regarded this opinion as a first step in that direction.

Mr Frendo underlined that it was essential for this legal opinion not to be used as a political tool against the Constitutional Court of Moldova.

Mr Aurescu welcomed the opinion, which was a legal one whose political consequences had been mitigated now that the constitutional crisis appeared to have been solved. In this context, it was underlined that only under exceptional circumstances would the Venice Commission enter into an assessment of the decisions of a Constitutional Court.

The Commission adopted the opinion on the constitutional situation in the Republic of Moldova, with particular reference to the possibility of dissolving parliament (CDL-AD(2019)012), previously examined by at the joint meeting of the Sub-commissions on Democratic Institutions and on the Mediterranean Basin on 20 June 2019.

12. Montenegro

President Buquicchio explained that in August 2015, the Ministry of Human and Minority Rights of Montenegro had sought the opinion of the Venice Commission on a draft law on freedom of religion. However, following criticism expressed by the rapporteurs during the visit, the authorities abandoned the draft and expressed the wish to withdraw the request. The Commission accepted this request to withdraw. Any preliminary document prepared at that time and subsequently abandoned without being finalised or submitted to the Commission should not be purported to be an opinion of the Venice Commission. Mr Buquicchio explained that the new draft law currently submitted to the examination of the Commission is an entirely new draft.

Mr Vermeulen explained that the Draft Law has a rather liberal approach to the freedom of religion or belief, notably concerning the issue of acquisition of legal personality by the religious communities, their registration and the exercise of this right. He stressed that some issues, such as the historical background of the draft law and the legal regimes which applied in the past to the property of religious communities were controversial among the stakeholders and underlined that inclusive and efficient consultations with the public, including the religious communities were essential.

Criticizing the prohibition for religious communities to establish primary schools, Mr Vermeulen considered that the communities should have the possibility to establish such schools as long as they are regulated appropriately to ensure educational quality, by requiring for instance that their curriculum is in conformity with state-approved curricula. He conceded however that given that in the Balkan states, in general, religious communities do not have the right to

establish primary schools and given that Montenegro is still a young state in a nation building process, the Montenegrin authorities may have good reasons for such a prohibition, for the time being.

The property rights issue is the most complex issue dealt with in the draft law. On the basis of criteria set out in Article 62 and according to the procedure under this article and Article 63, the public authority responsible for property issues shall request the registration of state owned as such in the real estate cadaster.

Specifically for religious property that is considered as part of the cultural heritage of Montenegro, the religious community concerned can challenge the authorities' claim that this property is state owned by providing evidence that the community owns the property and that the current registration at the cadaster is justified. The challenge can be brought first in the framework of administrative proceedings before the cadaster authority, with the possibility of an appeal to the administrative courts, the Supreme Court and possibly the Constitutional Court, when the administrative appeal is not successful. In the authorities' view, these provisions constitute neither a deprivation of property nor a confiscation, since this property is part of the cultural heritage and should not have been registered in the name of the religious communities: under domestic law and case-law, ownership through possession *(usucapio)* was no valid ground to obtain private property rights over social and state property, particularly for cultural heritage.

The Opinion made a number of recommendations to ensure more clarity so as to satisfy the requirements of foreseeability and accessibility. Other recommendations requested additional procedural safeguards, such the standard of proof applied, the notification of the religious community in question of the request to the real estate cadaster or a guarantee that the change in the title of religious property will not automatically affect the pre-existing right to use such property. The procedure in the draft provisions concerning the property rights should provide equivalent protection as the ordinary procedure both in term of substantive rules and procedural safeguards.

Following the discussions at the Sub-Commission on Fundamental Rights on 20 June the rapporteurs had prepared a number of draft amendments, also taking into account written comments submitted by Mr Backović.

Mr Velaers underlined that the draft law does not introduce any shift of burden of proof concerning property rights since the authorities have to prove in their claim before the cadaster that the property in question fulfills the criteria set forth in draft Articles 62 and 63. The religious community should provide evidence that the current registration has a valid legal basis.

Mr Mehmed Zenka, Minister of Human and Minority Rights of Montenegro, emphasized that it was high time to replace the outdated 1977 Law on the legal position of religious communities with a modern law on freedom of religion. Since 2015 the authorities have held consultations with the public and religious communities for the preparation of a new law. He stressed the openness of the government for dialogue with the communities. Agreements had been concluded with most religious communities.

Mr Backović thanked the rapporteurs for having taken on board some of his comments. He underlined that an administrative procedure does not provide for the same guarantees as a court procedure. The mere recommendation in the draft opinion that both procedures should provide for equivalent protection was not satisfactory. The administrative court procedure, which is held in camera, has a limited scope compared to the procedure before civil courts. The civil court procedure provides for more guarantees for rights and freedoms of the concerned communities. Establishing a special procedure for property rights of religious communities is a source of discrimination since it discards, without any valid justification, the

competence of ordinary civil courts as opposed to the disputes concerning the property rights of all other citizens.

Mr Pazin underlined that all guarantees under Article 6 ECHR also apply in the procedure before the administrative courts and that there is the possibility of appeal before the Supreme Court against the decision rendered by the administrative courts.

Mr Kovler agreed with the position taken by Mr Backović concerning the competence of ordinary civil courts. Mr Vermeulen considered that generally administrative justice before administrative courts lives up to the requirements of Article 6 ECHR and that the member states do not have an obligation to adopt a specific model of judicial review as long as the judicial procedure satisfies the requirements of the fair trial principle. He added that the current opinion does not deal with the judicial system of Montenegro but with the freedom of religion in general and the property of religious communities in particular.

Mr Knezević underlined the historical and practical difficulties for the religious communities to bring the evidence of ownership of old religious buildings, as the current territory of Montenegro is not the same as that of the Kingdom or Principality of Montenegro. Mr Vermeulen considered that it was not the task of the Venice Commission to assess the historical facts. He stressed however that the opinion would strengthen the recommendation that the administrative procedure should provide for equivalent guarantees as the ordinary court procedure in the property disputes.

The draft opinion was adopted with one vote against (Mr Backović) and one abstention (Mr Knezević).

The Commission adopted the Opinion on the Draft Law on Freedom of Religion or Beliefs and Legal Status of Religious Communities (CDL-AD(2019)010), previously examined by the Sub-Commission on Fundamental Rights on 20 June 2019.

13. Romania

Ms Bazy Malaurie explained that the present opinion had been requested by the PACE Monitoring Committee and was a follow-up to the October 2018 Opinion on the reform of the laws of justice of Romania. Five emergency ordinances had been adopted since October 2018, two of which (nos. 7 and 12) were the focus of the present opinion. The method of amending the legislation by emergency decrees (GEOs) was by itself problematic: the GEOs lacked clarity, were adopted sometimes without proper consultations and were not subject to the same control of constitutionality as the bills. The routine use of GEOs perturbs the principle of separation of powers. In substance, the GEOs made virtually no improvements to the elements of the reform which had been deemed problematic in the October 2018 opinion (except for the postponement of the new rules on the early retirement of magistrates and of the extension of the training periods). The Minister of Justice kept the key role in the process of appointment of top prosecutors, with few external checks. There was a risk of retroactive application of eligibility criteria for the top prosecutorial positions. As regards the newly created Special Section for the investigation of offences committed by the magistrates, judges played a too important role in the process of selection of top prosecutors for this Section, which did not sit well with the constitutional design of the body (the Supreme Council of Magistracy). The transfer of many cases to the Section, and the possibility of appealing earlier decisions made by other prosecutors was a source of concern. The role of the Prosecutor General as a “hierarchically superior” prosecutor vis-à-vis the Section prosecutors was not clear.

Mr Eugen Nicolicea, Vice President of the Chamber of Deputies, stressed that the opinion did not reflect sufficiently the context of the ongoing judicial reform, namely the protocols signed between some courts and the intelligence service, which put judicial independence at risk. Adopting the GEOs in a cascade manner was not the right approach but did not breach the separation of powers since the Government's power to issue legislative decrees was based on the Constitution. The powers of the Minister of Justice in matters of appointment had not increased after the reform. The number of civil society representatives on the Supreme Council of Magistracy was set in the Constitution and could not be changed.

Mr Kuijer described the changes introduced into the opinion following a meeting with Mr Nicolicea. He noted that, according to Mr Nicolcea, Parliament was discussing possible amendments, following the May 2019 referendum, aimed at restricting the Government's power to issue emergency ordinances.

The Commission adopted the Opinion on emergency ordinances GEO no. 7 and GEO no. 12 amending the laws of justice of Romania (CDL-AD(2019)014.

14. Tunisie

M. Holmoyvik présente le projet d'avis sur le projet de loi organique relative à l'Instance de développement durable et des droits des générations futures, préparé suite à une demande conjointe du ministre auprès du Chef du Gouvernement chargé de la relation avec les instances indépendantes, la société civile et les droits de l'Homme, M. Mohamed Fadhel Mahfoudh, ainsi que du Président de la Commission parlementaire de l'industrie, de l'énergie, des ressources naturelles, de l'infrastructure et de l'environnement, M. Amayeur Laarayedh.

Le projet d'avis a été examiné conjointement par les sous-commissions sur les institutions démocratiques et sur le bassin méditerranéen, où un amendement a été fait.

L'instance de développement durable et des droits des générations futures est une des cinq instances indépendantes constitutionnelles. C'est un organe consultatif avec une saisine obligatoire pour les textes entrant dans son champ de compétence. Les rapporteurs ont analysé les questions institutionnelles de cet organe en se basant essentiellement sur les Principes de Paris et les Principes de Venise, à la lumière du cadre juridique national, et également en tenant dûment compte des meilleures pratiques et tendances observées par des instances similaires existantes. L'avis est particulièrement long détaillé et offre non seulement une analyse juridique mais également de nombreuses recommandations alternatives afin d'assurer le meilleur fonctionnement possible pour une telle institution. Pour résumer, l'instance telle que prévue par le projet de loi ne semble pas pleinement investie des pouvoirs et des fonctions propres aux organes de conseil de cette nature. Afin de la rendre pleinement opérationnelle, il faudrait redéfinir clairement le champ de compétence de l'Instance, comme le champ de la consultation obligatoire, d'autant plus que le délai d'un mois imparti à l'Instance pour donner son avis est très court. Sur le plan institutionnel, la procédure et les conditions d'éligibilité des membres du Conseil devraient être revues. De plus, l'existence et la composition d'une Assemblée très large, qui comporterait plus de 100 membres, outre qu'elle pose des problèmes de représentativité selon les conditions d'éligibilité prévues, pose principalement un problème d'efficacité, le rôle et les fonctions de cette Assemblée étant peu clairs.

M. Mohamed Fadhel Mahfoudh remercie les rapporteurs pour avoir fourni et transmis dans de très brefs délais leur projet d'avis. Ce projet de loi a suscité beaucoup de débats parmi les experts et la société civile tunisienne ; l'expertise de la Commission en est d'autant plus précieuse. Sur la base de cet avis, le projet de loi a pu être modifié encore avant son adoption, le 13 juin 2019. La définition de certains concepts juridiques, le champ de compétences, les prérogatives et le

cadre juridique de l'Instance, le nombre des membres du Conseil et l'organisation de l'Assemblée comme les procédures disciplinaires ont ainsi été revus.

M. Amayeur Laarayedh informe la Commission que l'adoption du projet de loi a été retardé afin de pouvoir prendre en compte les recommandations du projet d'avis pour lequel il remercie les rapporteurs. Pour avoir fait partie de la constituante, il sait combien la thématique du développement durable est importante pour la Tunisie comme l'est de répondre à l'agenda 2030 des Nations-Unies. L'instance devrait pouvoir être installée et opérationnelle en juin 2020.

Le Président réitère l'intérêt et la disponibilité de la Commission à assister les autorités tunisiennes dans la mise en œuvre de leur Constitution.

La Commission adopte l'avis sur le projet de loi organique relative à l'Instance de développement durable et des droits des générations futures (CDL-AD(2019)013), préalablement examiné conjointement par les sous-commissions sur les institutions démocratiques et sur le bassin méditerranéen, le 20 juin 2019.

15. Exchange of views with the Director of the OSCE/ODIHR

Ms Ingibjörg Sólrún Gísladóttir, Director of the OSCE Office for Democratic Institutions and Human Rights, recalled in the first place that in the 1990 Copenhagen document, the OSCE participating States had recognized the "important expertise of the Council of Europe in the field of human rights and fundamental freedoms" and in Prague in 1992 they furthermore directed ODIHR to "work closely with other institutions active in the field of democratic institutions building and human rights, particularly the Council of Europe and the Venice Commission (the European Commission for Democracy Through Law). Indeed, the ODIHR and the Venice Commission have long employed their shared expertise to prepare joint legal opinions - since 2002 on joint elections-related legal reviews and from 2005 in other areas, such as freedom of assembly and association and political party regulations and freedom of religion. Ms Sólrún Gísladóttir underscored that in the difficult prevailing political climate, strategic co-operation and speaking with one voice were crucial for defending the rule of law, democratic elections and protecting space for vibrant civil society. In particular, the existence of good legislation, consistent with international human rights standards and OSCE commitments, is a precondition for the effective implementation of human rights at the national level.

Co-operation in the field of elections was particularly important. Joint opinions provided precise, objective, practical and timely advice, which, subject to the existence of political will, may contribute to successful electoral reform. ODIHR also welcomed the participation of the Venice Commission in election observation missions, in its capacity as legal adviser to the Parliamentary Assembly of the Council of Europe.

Ms Sólrún Gísladóttir considered that it would be appropriate in the future to follow up the results of the joint work more systematically, to maximise its impact and to continue to carry out joint work in order to avoid forum shopping. In addition, it was important to focus increasingly on the legislative process as such, not only to bring about democracy through law, but also law through democratic procedures, through rendering law-making more transparent and more inclusive.

Ms Kjerulf Thorgeirsdottir conveyed the Commission's appreciation of the long-standing co-operation and strategic alliance between the Venice Commission and the ODIHR.

Mr Buquicchio recalled that joint co-operation started in the early 1990s when ODIHR was established, and its first director Mr Luchino Cortese expressed his wish to co-operate with the Commission in the electoral field. This co-operation was primarily motivated by the need to avoid

forum shopping. Mr Buquicchio expressed his sincere wish that the two institutions would continue to work hand in hand.

16. Joint Guidelines on Freedom of Peaceful Assembly (3rd Edition)

Ms Bazy-Malaurie reminded the Commission that the Guidelines on Freedom of Peaceful Assembly had been prepared in co-operation with the OSCE/ODIHR and that they covered many important aspects of this right under Article 11 ECHR. The right to freedom of peaceful assembly is not an absolute right and it is subject to limitations, in particular in order to protect the public order. Therefore, the main difficulty in that area is to protect the right to free expression by way of public gatherings taking into account the difficulties that the exercise of this right may create for the authorities, but also for the exercise of rights by other persons. The Guidelines take into account this required balance between free expression on the one hand and the requirement of protection of public order and rights and freedoms of other persons, on the other hand. The Guidelines take into account not only the developments in the case-law of the ECtHR but also national legislations and case-law in different countries.

Mr Kote Vardzelashvili reminded that the first edition of the Guidelines on Freedom of Assembly which had been jointly prepared by the OSCE/ODIHR and the Venice Commission and which dated back to 2010 was widely used by legislators, policy makers and practitioners, in addition to the ECtHR and other international organisations. The rapporteurs have been working on this third edition of the guidelines for almost 4 years and despite the difficulties encountered, this process resulted in a balanced document which would hopefully significantly contribute to the protection of the right to freedom of peaceful assembly.

The Commission adopted the Joint Venice Commission- OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly (3rd edition) (CDL-AD(2019)017), previously examined by the Sub-Commission on Fundamental Rights on 20 June 2019.

17. Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist

Mr Tuori introduced the “Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a Checklist”. The preparation of the Checklist was prompted by a request from the Secretary General and resulted from several years of work. In 2018 the rapporteurs decided to use the format of a Checklist which was less prescriptive than “guidelines”. Mr Tuori explained the structure of the Checklist and noted that country examples were not exhaustive but mere illustrations. The drafting process had been inclusive, with over 10 members (in addition to the rapporteurs) having submitted their comments to the later version of the text, in addition to oral discussions. Some of the questions raised in the Checklist concerned not only the rights of the opposition as such, but the rights of Parliament and of all MPs in general, but this was inevitable: those issues were included in the Checklist because they were particularly important for the normal functioning of the opposition. The Checklist also mentioned the duties of the opposition, and the principles of shared responsibility before the general public and of political solidarity. The latter principle was different from the principle of loyal co-operation amongst State institutions. The Checklist was based on the philosophy of respect for political pluralism and of checks and balances; the majority should not use its dominant position to cement its position so as to exclude political alternation.

In the ensuing discussion the risks of “consensual democracy” were underlined: the desire for consensus should not prevent the exercise of power, which is the essence of democracy. The Checklist covered a wide range of topics which were broader than the rights of the opposition as such. Proportional representation in Parliament could reduce the chances of an opposition party

coming to power, and thus parties could be less inclined to behave in a constructive manner. The rules on coalition-building should not be in the Constitution.

The Commission adopted the Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a Checklist (CDL-AD(2019)015), previously examined at the joint meeting of the Sub-commissions on Democratic Institutions and on the Mediterranean Basin on 20 June 2019.

18. Report on the Use of Digital technologies and elections

Mr Vargas Valdez recalled that the Internet and social media had opened new opportunities for political participation and had become essential in the electoral process; electronic challenges to democracy, including cybercrime, were nonetheless high and extremely complex, due in particular to the borderless nature of the internet and the private ownership of information. A legal response to these challenges was needed. Some form of regulation was called for, but it had to respect fundamental freedoms, in particular, freedom of expression, economic freedom, the right to privacy and social rights. Additional reflection by the Commission could lead to the identification of principles based on international standards which could guide such regulation and even self-regulation.

The Commission adopted the Joint report of the Venice Commission and of the Directorate of information society and action against crime of the Directorate General of Human Rights and Rule of Law (DGI) on the use of Digital technologies and Elections, previously adopted by the Council for Democratic Elections on 20 June 2019 (CDL-AD(2019)016) and decided to elaborate a set of principles for a fundamental rights-compliant regulation of the use of digital technologies in electoral processes.

19. Working Methods

President Buquicchio recalled that an extensive discussion had taken place at the March 2019 Plenary Session on the proposal made by five members to introduce the possibility of attaching separate opinions by individual members to the Commission's opinions. Thereafter, arguments had been developed in favour and against such a proposal and they had been extensively discussed at the meeting of the Enlarged Bureau of 20 June 2019 in the presence of some of the proposing members.

Following this discussion, the Enlarged Bureau had decided to propose to the Plenary not to accept the proposal, but to instruct the Sub-Commission on Working Methods to carry out an in-depth reflection aimed at improving the manner in which dissenting arguments made by members are reflected and responded to in the final version of opinions.

The Commission decided not to introduce the possibility of attaching separate opinions to the opinions adopted by the Venice Commission and instructed the Sub-Commission on Working Methods to explore ways to enhance consideration, in the Commission's opinions, of all arguments brought forward by the members.

20. Rapport sur la révocation par le peuple des maires et des élus locaux

Mme Jametti informe le Conseil que l'étude a été rédigée à la demande du Congrès, suite à la procédure de révocation du maire de Chişinău, en vue de savoir si la révocation par le peuple (*recall*) est conforme aux normes internationales. Celle-ci peut exister au niveau

national, régional ou local, et concerner les membres individuels du législatif ou de l'exécutif, ou l'ensemble de l'organe, et être initiée, par exemple, sur demande du peuple, du conseil communal ou d'un organe national. En pratique, elle existe, en droit et en fait, surtout en Amérique (Equateur, Pérou, Etats-Unis), ainsi qu'au Japon ; en Europe, ses cas d'application sont assez limités. La Charte européenne de l'autonomie locale ne se prononce pas sur la question. La révocation par le peuple est destinée à renforcer les liens entre élu et électeur mais comporte des risques. Comme la révocation (par le peuple) est un processus politique, elle ne doit pas être soumise à des conditions de fond. En conclusion, la révocation par le peuple est peu utilisée en pratique, mais elle doit en tout cas être soumise à des garde-fous importants et être dès lors exceptionnelle, et les divers aspects de la procédure doivent être traités clairement par la loi.

M. Kiefer souligne que le principal but du Congrès est de maintenir la stabilité institutionnelle. Un certain nombre de maires ont été soumis à des pressions. Le Congrès préparera un rapport mettant l'accent sur des exemples européens, et pourrait inviter les rapporteurs de la Commission de Venise à faire des commentaires lors des dernières étapes de la préparation du rapport.

La Commission adopte le rapport sur la révocation par le peuple des maires et des élus locaux (CDL-AD(2019)011), préalablement adopté par le Conseil des Elections Démocratiques le 20 juin 2019.

21. Information on constitutional developments in other countries

Armenia

Mr Markert recalled that last year in Armenia there had been a peaceful revolution respecting the rules of the Constitution. The judiciary was, however, regarded by many as being corrupt and close to the previous power.

Following a court decision to release on bail former President Kocharyan, on 19 May Prime Minister Pashinyan had strongly criticised the courts, asked his supporters to block court houses and called for a renewal of the judiciary. In a letter to the Prime Minister the President of the Commission acknowledged that there was a lack of trust in the judiciary but insisted that any measures taken had to be fully in line with the Constitution and international standards.

Upon the invitation of the Armenian authorities, a delegation of high Council of Europe officials, led by the Director General on Human Rights and the Rule of Law and including the Secretary of the Commission, went to Armenia to discuss judicial reform. Agreement was reached that it would be neither necessary nor useful to carry out a general vetting of all sitting judges. Instead, disciplinary procedures should be strengthened and a link with the asset declaration system established. To this end the Judicial Code should be amended before the end of July.

The Armenian authorities indicated an interest in obtaining an urgent opinion of the Venice Commission on these amendments but had not yet made an official request since the amendments were not ready. At its meeting the Enlarged Bureau authorised the preparation of an urgent opinion.

The Commission authorised the preparation of an urgent opinion on the reform of the judicial code of Armenia, to be forwarded to the requesting authorities prior to the October Plenary Session.

The Commission was furthermore informed that a newly elected judge of the Constitutional Court had questioned the legitimacy of 7 of the 9 judges of the Court, who had been elected prior to the entry into force of the 2015 constitutional amendments. His main argument was that, according to the previous text of the Constitution, they had been elected as members of the Constitutional Court, while the new text referred to judges of the Constitutional Court. Article 213 of the revised Constitution, however, provided clearly and unambiguously that the chairman and members of the Constitutional Court appointed prior to the entry into force of the amendments shall continue to serve until the end of their term of office prescribed by the Constitution amended in 2005. It was disturbing that this statement by the judge had been applauded in parliament and there might be a risk of interference with the mandates of the sitting judges.

The Commission asked the President to follow the situation with respect to the Constitutional Court closely with a view to making, if appropriate, a public statement.

Kazakhstan

Mr Rogov informed the Commission about the historic decision of the First President of the Republic of Kazakhstan, Mr Elbasy Nursultan Nazarbayev of 19 March 2019, to resign after 30 years in office. This decision had laid the foundation for a democratic, legal, social and secular state, creating the basis for a market economy as well as for dismantling the totalitarian ideology. Regarding the constitutional reforms enacted, Mr Rogov highlighted the importance of the work of the Venice Commission whose recommendations were always taken into account. In accordance with the law, Mr Nazarbayev would remain the Chairman of the Security Council, a constitutional consultative advisory body. In accordance with the Constitution, Mr Kassym-Jomart Tokayev, Chairman of the Senate of the Parliament had become acting President and on 9 April 2019 had decided to hold extraordinary elections which took place on 9 June 2019 with 7 candidates from political parties and public associations. Mr Tokayev, nominated by the Nur Otan Party led by Mr Nazarbayev won with more than 70 % of the vote, the representative of the opposition Mr Amirzhan Kosanov receiving 16 % and the rest of the candidates between 1 and 5 % of the vote. Acknowledging the substantial support Kazakhstan has received over the past years from the international legal community and primarily the Venice Commission which repeatedly adopted opinions on the country's laws, Mr Rogov expressed the hope that this co-operation would continue.

Lithuania

Mr Zalimas informed the Commission that on 21 March 2019 the Lithuanian Constitution had been amended, introducing a mechanism of individual complaint to the Constitutional Court. Amendments to the legislation on the Constitutional Court to be adopted in July would enter into force on 1 September 2019

After exhausting the ordinary legal remedies, individuals will be able to introduce an individual complaint before the Constitutional Court against legal provisions violating their fundamental rights and freedoms. When the complaint does not satisfy the conditions, the applicant will be given the possibility of eliminating the deficiencies within 30 days. Legal representation before the Court will not be mandatory and there will be no court fee. The Constitutional Court will also have the power to suspend the execution of judgments applying the challenged provision when there is a risk of irreparable harm.

In addition, on 20 May 2019, two referenda were held but failed because of insufficient turnout. The first one concerned the acceptance of double citizenship. The second one concerned the reduction of the number of deputies in Parliament (from 141 to 121).

Peru

Mr Sardon informed the Commission that President Vizcarra had asked Congress to approve a reform which included barring from running for office persons sentenced to more than four years for an intentional crime even pending appeal, making primary elections for political parties compulsory and supervised by electoral bodies, criminalisation of undue financing and reporting of political parties, the introduction of a minimum number of 14000 member to register a political party, elimination of preferential voting and mandatory nature of gender alternation on parliamentary candidates' lists and the transfer of competence to lift parliamentary immunity from Congress to the Judiciary. President Vizcarra announced that his cabinet of ministers would resign should Congress not approve these proposals, which however also entail constitutional amendments.

President Buquicchio expressed the hope that the Peruvian authorities would request an opinion of the Venice Commission on the planned constitutional reform.

22. Co-operation with other countries

Argentina

President Buquicchio informed the Commission that he had participated together with two Commission members and one expert in the seminar co-organised by the National Electoral Chamber in Buenos Aires on 30 May 2019 on the topic: Good practices in electoral matters. Three subjects had been discussed: the responsible use of digital technologies in electoral campaigns; transparency and the financing of political parties; and presidential debates. On the day of the seminar, an agreement had been concluded by the Electoral Commission, the political parties and the internet providers for a responsible and democratic use of digital technologies in the course of the upcoming electoral campaign.

In the margin of the seminar, the President had discussed with the authorities the matter of a possible accession of Argentina to the Venice Commission. There was a great interest in becoming full members, but the financial situation of the country suggested that the decision should be postponed.

Mongolia

The President participated in an international conference "separation of power and constitutional court", on 6-7 June 2019, in Ulaanbaatar, Mongolia.

In parallel to a high-level Conference, the President of the Commission had a meeting with the Speaker of Parliament. Many reforms have been launched in the judicial field and, if the draft legislation submitted to parliament is adopted, the High Judicial Council will be composed equally of judges and lay members and the members of the Constitutional court will have a nine years non-renewable term of office, which will be more in line with international standards. The President was assured of the highest interest of the authorities to benefit from the Vernice Commission's expertise and assistance in the legal reforms to come.

Suisse

M. Ulrich Meyer, Président du Tribunal fédéral suisse, indique que le système constitutionnel des Etats-Unis a inspiré la création de l'Etat fédéral en 1848, les deux chambres fédérales représentant le peuple et les Etats fédérés. Le Tribunal fédéral, créé en 1875, est inspiré de la Cour suprême, et a fonctionné dès le début comme Cour constitutionnelle vis-à-vis des cantons. Par contre, malgré plusieurs tentatives, il n'a pas obtenu la compétence d'une Cour constitutionnelle sur le plan fédéral. Il faut relever que le peuple et tous les cantons ont rejeté le

25 novembre 2018 une initiative populaire dirigée contre le Tribunal fédéral. L'expérience suisse montre qu'il peut y avoir conflit entre la démocratie et le droit, mais la longue expérience démocratique suisse devrait intéresser la Commission.

Uzbekistan

Mr Frendo participated in a Conference on "Separation of powers and Constitutional court" which took place in Tashkent, Uzbekistan, on 25-27 April 2019.

This first forum organised by the Ministry of Justice of Uzbekistan brought together representatives of different state institutions, lawyers, academia and the business community. More than 50 international experts, representatives of different international organisations took part in the event.

Presentations covered a wide range of topics such as reforms of the judiciary and public administration, fight against corruption, international arbitration (including information about different national experiences and on existing international standards).

The newly elected President Mirziyaev announced the launching of several important institutional reforms in Uzbekistan. Among other issues, the proposed changes concerned the approval of the members of the government by Oliy Majlis (parliament), introduction of the mechanism of parliamentary control, the restructuring of the executive branch and administrative reforms.

The President welcomed these pieces of information and confirmed the availability of the Commission to offer co-operation in this regard.

23. Information on Conferences and Seminars

The Commission was informed on the results and conclusions of:

UniDem Seminar on "The state of democracy thirty years after the fall of the iron curtain" (Lund, Sweden, 6-7 May 2019;

Mr Tuori informed the Commission about the UniDem seminar which took place in Lund on 6-7 May, in which several members and former members of the Commission participated. This seminar followed up to the one organised in 2000 by the Venice Commission and the Law Faculty of Lund University, on "Democracy in a society in transition". On this occasion, the progress made by these countries and the contribution of the Commission, in particular with regard to the new democracies of Central and Eastern Europe, had been discussed. 18 years later, the participants in Lund took stock of the post-2000 developments in respect of democracy, the rule of law as well as the freedoms of association and assembly, through the positions taken by the Venice Commission. The proceedings of this UniDem seminar will be published thanks to the Lund Faculty.

Seminar on "Modern Constitutional Development: The Role of Constitutional Review in Constitutionalisation of Law" (Minsk, 30-31 May 2019;

Ms Kjerulf Thorgeirsdottir explained that on 30-31 May an international conference was organised in co-operation with by the Constitutional Court of the Republic of Belarus in Minsk on the occasion of its 25th anniversary on "Modern Constitutional Development: the Role of Constitutional Review in Constitutionalisation of Law". Ms Kjerulf Thorgeirsdottir, Mr Knežević and Ms Simáčková represented the Venice Commission. Constitutional Court Presidents and Judges from the Constitutional Courts of Armenia, Azerbaijan, Belarus, Bulgaria, Kazakhstan, Kyrgyzstan, Latvia, and the Russian Federation participated in the Conference.

Ms Kjerulf Thorgeirsdottir made an opening presentation, whereas Mr Knežević made a presentation on current tendencies of constitutional review in the Balkans and Ms Simáčková, presented the Venice Commission's report on separate opinions.

Together with Mr Knežević, as President of the Constitutional Court of Bosnia and Herzegovina, she was also invited by President Lukashenko. During this meeting, she underlined the need to foster co-operation with Belarus, insisting on the right to life and the freedom of expression.

9e Séminaire UniDem-Med « Vers une administration de proximité : modèles et bonnes pratiques » (Marrakech, Maroc, 12–14 juin 2019)

M. Jeribi a participé, en tant que modérateur, au Séminaire UniDem-Med « Vers une administration de proximité : modèles et bonnes pratiques » organisé conjointement par le Ministère de la réforme de l'administration et de la fonction publique du Maroc et la Commission. Ce séminaire a réuni des participants et des experts de grande qualité qui ont pu identifier les composantes essentielles d'une administration efficace et respectueuse de l'état de droit et des citoyens. Les effets de la décentralisation, de la déconcentration, de la digitalisation comme du rapprochement de l'administration vers les usagers et de leur égalité de traitement ont été traités. Les séminaires UNIDEM sont un précieux accompagnement dans les réformes de l'administration qui sont en cours des deux côtés de la rive de la Méditerranée.

24. Compilations of Venice Commission opinions and reports

Mr Helgesen reminded the Commission that in March 2019, the Venice Commission had adopted a compilation of opinions and reports concerning electoral systems. Given the breadth of the topic, it was decided that the possible effects of different electoral systems on the representation of national minorities and of gender would be dealt with in specific compilations.

Both issues had been examined by the Commission in various country-specific opinions and in general documents, particularly in the case of representation of national minorities. The two compilations included both extracts concerning possible effects of different electoral systems on gender and minority representation and extracts dealing with specific measures to ensure such representation, to provide a comprehensive overview.

The Commission endorsed the Compilations of Venice Commission opinions and reports concerning electoral systems and national minorities (CDL-PI(2019)005) and concerning electoral systems and gender representation (CDL-PI(2019)004).

25. Report of the meeting of the Joint Council on Constitutional Justice (Rome, 23-24 May 2019)

Ms McMorrow explained that in order to foster the co-operation between the constitutional courts and the Venice Commission, the latter established the Joint Council on Constitutional Justice, which is composed of members of the Venice Commission and liaison officers appointed by the constitutional courts. The liaison officers contribute to the CODICES database, which contains over 10 000 judgments, and exchange information via the Venice Forum, which is a restricted Internet forum for discussion between the participating courts.

The 18th meeting of the Joint Council on Constitutional Justice took place on 23-24 May in Rome, at the seat of the Constitutional Court of Italy and was opened by the Vice-President of the Court, Ms Cartabia and the President of the Venice Commission.

The Secretariat had informed the participants about the new mechanism of the World Conference on Constitutional Justice to support Courts under undue pressure.

The topic of the mini-conference, which is a traditional part of the Joint Council meetings, was the "Independence of the Judiciary – the Role of Constitutional Courts". 10 speakers made presentations focusing in particular on the case-law of national constitutional courts and of the European Court of Human Rights.

26. Report of the Meeting of the Council for Democratic Elections (20 June 2019)

Mr Kask informed the Commission that he had been re-elected as President of the Council, while Lord Balfe had been re-elected as its Vice-President.

He informed the Council on the progress of the work on the Report on Election dispute resolution. The Council discussed a first draft, which covered such issues as competent bodies; grounds for complaints; decisions open to challenge; standing; time-limits for submissions and decision-making; procedural safeguards, such as transparency and the right to submit evidence. The 17th European conference of Electoral Management Bodies would take place in Bratislava on 27-28 June on the same topic. Future activities would include updating of the Code of Good Practice on Referendums, and possibly the report on gender-balance in electoral field.

27. Other business

Ms Simona Granata-Menghini recalled that the Venice Commission was established by Resolution Res(90)6 adopted by the Committee of Ministers on 10 May 1990. In 2020, the Commission therefore celebrates its 30th anniversary. A celebrative ceremony will be held in Palazzo Ducale on Friday 9 October 2020 in the presence of the highest authorities of the Italian State, representatives of the Regione Veneto and the Comune di Venezia as well as high representatives of some Venice Commission member states. The preparations have started, and the Commission will be kept duly informed. The 124th Plenary Session will therefore take place on Thursday 8 October 2020, for one day only. Sub-commissions will take place on Wednesday 7 October. Travel arrangements need to be made accordingly.

28. Dates of the next sessions

The schedule of sessions for 2019 and 2020 was confirmed as follows:

120th Plenary Session	11-12 October 2019
121st Plenary Session	6-7 December 2019
122nd Plenary Session	20-21 March 2020
123rd Plenary Session	19-20 June 2020
124th Plenary Session	8 October 2020
30th anniversary	9 October 2020
125th Plenary Session	11-12 December 2020

Sub-Commission meetings as well as the meetings of the Council for Democratic Elections will take place on the day before the Plenary Sessions.

Link to the list of participants