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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**100<sup>th</sup> PLENARY SESSION**  
**Rome, Ministry of Foreign Affairs**  
**Friday, 10 October 2014 (12.30 p.m.) -**  
**Saturday, 11 October 2014 (1.00 p.m.)**

**SESSION REPORT**

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## 1. Opening Session

Italian and international personalities addressed the Commission on the occasion of the 100<sup>th</sup> Plenary Session. The texts of the speeches presented at the opening session will be published on the Venice Commission's web site.

[Link to programme](#)

## 2. Adoption of the Agenda

The agenda was adopted as it appears in document [CDL-PL-OJ\(2014\)003ann](#).

## 3. Communication by the President

Mr Buquicchio informed the Commission about his recent activities, which are listed in document [CDL\(2014\)047](#).

He also informed the participants that copies of the book devoted to the 100<sup>th</sup> Plenary Session of the Venice Commission, entitled "*Venice Commission: one hundred steps to democracy through law*" were available in English and in Russian. This book was edited by Ms Khabrieva and Mr Lafitsky, and published by the Institute of Legislation and Comparative Law under the Government of the Russian Federation.

## 4. Communication by the Secretariat

Mr Markert informed the Commission that the Bureau proposed to the Commission to appoint Ms Herdis Thorgeirsdottir and Mr Richard Clayton as Gender Equality Rapporteurs, a position introduced by the Transversal Programme on Gender Equality launched by the Secretary General of the Council of Europe to improve the visibility and impact of the Council of Europe's work on gender equality in the member states. The main task of these rapporteurs will be to ensure that gender perspective is properly integrated in the work of the Venice Commission. The Commission approved this proposal.

Mr Markert also informed the Commission about the Photo Brochure of all Venice Commission members and staff that should have been ready for the 100<sup>th</sup> Plenary Session. However, since pictures of many members were still missing, its publication was postponed to December 2014.

## 5. Follow-up to earlier Venice Commission opinions

The Commission was informed on follow-up to the following opinions:

*Opinion on the procedure for appointing judges of the Constitutional Court in times of presidential transition in the Slovak Republic* ([CDL-AD\(2014\)015](#))

In this opinion, requested by the Minister of Justice of Slovakia, the Commission had come to the conclusion that the outgoing President of Slovakia could - until the last day of his mandate - appoint three judges at the Constitutional Court out of the six candidates nominated by Parliament, even after the new President had been elected. The opinion also stressed that the new President would be bound by the nominations made by Parliament. Notwithstanding the opinion, the former President had not appointed the judges. Once in office, the new President appointed one out of the six candidates but refused to fill the two other vacancies because, in his view, the candidates were not qualified for the post of Constitutional Court Judge. The rejected candidates had appealed to the Constitutional Court against their non-appointment. The case was currently pending before the Constitutional Court.

*Joint Opinion on the draft Law on disciplinary liability of Judges of the Republic of Moldova ([CDL-AD\(2014\)006](#))*

The Commission was informed that, at the end of July 2014, the Moldovan Parliament had adopted the draft Law on disciplinary liability, as part of a package of draft laws for which the Government had assumed its responsibility. Under these circumstances, although initial proposals aimed at implementing the recommendations contained in the joint opinion had been made by the Government, none of these recommendations had been taken into account.

*Joint Opinion on the Electoral Code of “the former Yugoslav Republic of Macedonia” ([CDL-AD\(2013\)020](#))*

The Electoral Code of “the former Yugoslav Republic of Macedonia” came into force in February 2012 and was further revised on 24 January 2014.

The changes adopted in 2014 took into consideration some of the recommendations made in the 2013 joint opinion, such as the need for a more balanced gender representation in election administration bodies. However, a number of recommendations remained unaddressed, concerning *inter alia*: the additional safeguards recommended regarding the separation of state and political parties; the need to strengthen the provisions on campaign financing, notably the threshold for campaign contributions by individuals and legal entities; the need to address the electoral dispute resolution mechanism, the uneven distribution of voters in out-of-country districts and the difference between the numbers of voters in in-country and out-of-country districts.

*Joint Opinion on the Act on the elections of members of parliament of Hungary ([CDL-AD\(2012\)012](#))*

The Election Act of Hungary came into force in January 2012 and was further revised on 3 March 2014. Improvements were introduced to the conditions for nominating candidates. However, important recommendations were still to be addressed concerning *inter alia*: a clearer definition of the method of seat allocation to constituencies; the right of voters from national minorities to choose on election day between nationality lists and party lists; the necessity to vote in polling booths in order to secure the secrecy of the vote; and the necessity to detail further the procedures for voting abroad.

*Joint Opinion on the draft Law on amendments to the law on election of councillors and members of parliament of Montenegro ([CDL-AD\(2011\)011](#))*

The Election Law of Montenegro had been amended in July 2006 and then further revised on 21 March 2014. New provisions were introduced concerning the inspection of all election materials, including ballots, polling station minutes and the voters' list. Moreover, the revised law provided for the possibility to appoint, as members of municipal election commissions, elected councillors supported by groups of voters and, as previously recommended, regulated the issue of ballot coupons during mobile voting.

Recommendations that remained unaddressed in the 2014 revised Election Law mainly include: the elaboration of detailed provisions on the issue of political parties' coalitions, their dissolution and its effects; the reduction or removal of the length of residency requirement in local, regional and national elections; the improvements recommended in relation to the representation of the opposition parties in the system of appointments of members of the State Election Commission, the composition of municipal election commissions, and the terms of office of their members; the extension of the mandate of the State Election Commission to guarantee that it co-ordinates and supervises municipal as well as national elections; and the clarification of the procedures in place for voting in prison.

*Opinion on the electoral legislation of Mexico ([CDL-AD\(2013\)021](#));*

A change in the Constitution of Mexico in electoral matters was adopted in February 2014 and a legislative change on the same issue entered into force in May 2014. The reform introduced major changes in the new National Electoral Institute of Mexico and a Specialised Chamber of the Electoral Tribunal was created to deal with specific administrative issues, such as the distribution of radio and television times.

Many of the recommendations made by the Venice Commission in its opinion were followed, mainly concerning the following points: the need to simplify the legislation (the legislation was made clearer and more concise, thus more understandable to all electoral stakeholders); the ban on the re-election of parliamentarians (both members of the Congress and of the Senate can now be re-elected, for two and four consecutive periods respectively); the revision of the provisions on limits to the financing of political parties (including a clearer and more transparent system for reporting on expenditure and sanctions).

## **6. “The former Yugoslav Republic of Macedonia”**

Mr Barrett introduced the draft opinion on the draft amendments (XXXIII - XXXIX) to the Constitution of "the former Yugoslav Republic of Macedonia" concerning, in particular, the Judicial Council, the Competence of the Constitutional Court and special financial zones, as approved by the Sub-Commission on Democratic Institutions on 9 October 2014.

Constitutional amendment XXXIII concerned the definition of marriage. While the definition of “marriage” remains largely within the discretion of the member-States, recent case-law of the European Court of Human Rights shows that if the States decide to give some legal recognition to different-sex partnerships falling short of marriage, they should give legal recognition to same-sex partnerships as well.

Concern was raised in connection with the status of “international financial zones” introduced by Amendment XXXIV. Such zones, conceived as self-governing territories run by private-public partnerships, risk turning into “States within the State”. In the rapporteurs’ view, that amendment was going too far; it was raising the question of democratic legitimacy and was inconsistent with certain constitutional principles and international obligations of the Republic.

As to Amendment XXXVII introducing a rule limiting budget deficit and public debt, it was unclear which body would ensure compliance by the Parliament with that rule.

The amendment concerning the Judicial Council (XXXVIII) reflected some of the proposals made by the Venice Commission in its 2005 opinion on the same matter. However, in the current setup the judiciary members formed the overwhelming majority of the members of the Judicial Council which created the risk of corporatism.

The draft opinion welcomed the extension of the competence of the Constitutional Court in the area of individual constitutional complaints (Amendment XXXIX), but suggested that giving new powers to the Court should not be immediate, and that the law on the Constitutional Court should be adopted which would regulate the procedure of constitutional complaint.

Finally, the rapporteurs noted that the opposition had been boycotting Parliament, so if the amendments were adopted, it would be by the votes of the ruling coalition only. The draft opinion urged all political forces to enter into a constructive dialogue.

In his intervention, Mr Todorov, Minister of Health of the Republic, said that the amendments would be reviewed in the light of the recommendations of the draft opinion. In relation to the amendments concerning marriage, Mr Todorov stressed the need to protect the traditional family. As to the amendment concerning international financial zones, he explained the rationale behind it and affirmed that all international obligations of the Republic would be fully applicable in such zones.

Following discussion, the text of the draft opinion on same-sex marriages was amended.

**The Commission adopted the Opinion on the seven amendments to the Constitution of “the former Yugoslav Republic of Macedonia”, concerning, in particular, the Judicial Council, the competence of the Constitutional Court and special financial zones (CDL-AD(2014)026 ([CDL-AD\(2014\)026](#)).**

## 7. Ukraine

Mr Tuori presented the draft opinion underlining that the examined text concerned mostly the issue of redesigning the distribution of powers between the President and the Rada, the revision of the powers of the prosecutor's office and the issue of decentralisation in Ukraine. Unfortunately, the judiciary was not addressed by the examined draft.

The President of Ukraine had requested the Commission's opinion on 2 July 2014. The rapporteurs had prepared their comments by the end of July and, based on the Commission's prior authorization at its 99<sup>th</sup> Plenary Session, the draft opinion had already been sent to the Ukrainian authorities. The opinion praised the abolition of general supervisory powers of the Prosecutors office, the proposed decentralisation and the strengthening of regional and local authorities at all levels. However, it noted also that the draft amendments considerably increased the powers of the President putting at risk the system of “checks and balances” necessary for the normal operation of democratic institutions.

Mr Ruslan Knyazevich, representative of the President of Ukraine, thanked the Commission for the opinion and informed it about the intention of the authorities of Ukraine to continue their co-operation with the Venice Commission on the constitutional reform after the 26 October parliamentary elections. He asked the Commission to make the opinion public after the announcement of the results of the parliamentary election in order to avoid its unnecessary political use during the electoral campaign.

**The Commission endorsed the opinion on the Draft law amending the Constitution of Ukraine ([CDL\(2014\)034](#)) and decided to release it after 26 October 2014.**

## 8. Armenia

Mr Tanchev briefly introduced the draft Opinion on the Draft Concept Paper on the Constitutional Reforms of the Republic of Armenia. The Draft Concept Paper was a first step in the Constitutional reform process. Its aim was to bring the country closer to fully implementing the basic values of the Council of Europe. The legal choices expressed in the Draft were in line with the Venice Commission's traditional positions, and the views expressed by its rapporteurs during the various exchanges of views had been taken into account. Overall, the draft Opinion stressed that the aims and the overall approach of the reform deserved strong support.

Mr Gagik Harutyunyan, President of the Constitutional Court of Armenia and coordinator of the Professional Commission for Constitutional Reforms, thanked the Venice Commission for its

assistance and stated that the concept paper and the opinion were a very good basis for the future constitutional reform.

**The Commission adopted the Opinion on the Draft Concept Paper on the Constitutional Reforms of the Republic of Armenia ([CDL-AD\(2014\)027](#)).**

## 9. Georgia

### *Constitutional Reform*

Mr David Usupashvili, Speaker of Parliament of Georgia, informed the Commission on progress of work on the reform of the Constitution of Georgia. He explained that, despite the constitutional amendments in 2010, many constitutional issues were still to be addressed such as the sharing of competences between the President and the Prime Minister, the territorial-administrative arrangement for Abkhazia and South Ossetia, the authority of the President including military and national security.

Mr Usupashvili emphasised the pluralistic composition of the State constitutional commission in charge of the preparation of constitutional amendments, composed of political party representatives, NGO representatives as well as other experts. He also underlined the difficulties and challenges facing Georgia in this reform process. In particular, the need for a  $\frac{3}{4}$  majority to amend the Constitution at two successive sessions of the Parliament after an interval of three months makes it difficult to reach a consensus for constitutional changes. Mr Usupashvili however also underlined that the existence of a consolidated opposition in the Parliament was a positive factor likely to contribute to the high quality of the constitutional amendments.

Mr Usupashvili informed the Plenary that the mandate of the state constitutional commission had been extended until 1 March 2015, but the commission would be in a position to provide the draft amendments by the end of year.

*Joint opinion by the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft Law on Amendments to the Organic Law on General Courts of Georgia*

Mr Hirschfeldt presented the draft joint opinion, as amended by the Sub-Commission on the Judiciary. He emphasised that several important improvements were introduced by the draft amendments in terms of ensuring the independence of the Judiciary. Additional work, however, was necessary. Mr Hirschfeldt in particular underlined the need for clear criteria in the draft law for the promotion of judges and the removal of the probationary periods for judges both from the Constitution and the draft law. He also highlighted that the powers of the special unit of the Judicial Council for the investigation of judge candidates should be limited in order to better ensure data protection and privacy rights of the candidates. The draft joint opinion also considered that the provisions concerning the automatic termination of the mandates of the court chairperson upon the enactment of the draft amendment law were problematic and should be removed.

Ms Tea Tsulukiani, Minister for Justice of Georgia stated that the authorities were generally in agreement with the assessment of the draft amendments provided in the draft opinion and provided clarification as to the authorities' approach to the probationary periods for judges. Mr Kublashvili, President of the Supreme Court of Georgia, expressed his agreement with the Venice Commission's position on the abrogation of the probationary period.



**The Commission adopted the Joint opinion by the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft Law on Amendments to the Organic Law on General Courts of Georgia ([CDL-AD\(2014\)031](#)).**

*Joint opinion by the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) on the draft Law making changes to the Law on disciplinary liability and disciplinary proceedings of Judges of General Courts of Georgia*

Ms Banic presented the draft joint opinion, as amended by the Sub-Commission on the Judiciary. She welcomed the efforts of the Georgian authorities to improve the present legal framework and to establish higher standards of judicial independence. The draft opinion in particular welcomed that a clear division of tasks between the body in charge of investigating (the High Council of Justice) and the body in charge of deciding on the imposition of disciplinary sanctions (Disciplinary Board), in line with international standards, was provided in the draft law. Some additional work was however necessary, to address recommendations contained in the draft opinion, including: to reconsider the power of the High Council of Justice to send a reprimand letter to the judge concerned as a disciplinary measure; to address the need for a two thirds majority for all decisions of the High Council in disciplinary proceedings; to ensure that the law provides for clear grounds for the initiation of disciplinary proceedings against judges.

Ms Tsulukiani stressed that the Georgian authorities were generally in agreement with the assessment given in the draft opinion and informed the Plenary that a clear catalogue of disciplinary offences would be prepared, as a response to the Venice Commission's recommendation. Mr Kublashvili also supported the recommendations contained in the draft opinion and provided clarifications in relation to the issues raised by the "reprimand letter".

**The Commission adopted the Joint opinion by the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) on the Draft Law making changes to the Law on Disciplinary Liability and Disciplinary Proceedings of Judges of General Courts of Georgia ([CDL-AD\(2014\)032](#)).**

*Joint opinion by the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe, on the Draft Laws amending the Administrative, Civil and Criminal Procedure Codes of Georgia*

Mr Pieter van Dijk presented the draft joint opinion. He welcomed the improvements introduced by the draft laws to the system of cassation appeals by broadening and refining the admissibility criteria. The draft opinion in particular welcomed that one of the main purposes of the amendments was to ensure the conformity of domestic courts' decisions to the case-law of the ECtHR. Mr van Dijk underlined that, in its future case-law, the Supreme Court would have to address the ambiguity of some admissibility criteria by giving clarifications based on a consistent and non-discriminatory judicial interpretation. He also emphasised that the admissibility criteria aimed at ensuring the conformity of domestic case-law with the case-law of the ECtHR, should be reformulated to cover the entire case-law of the ECtHR, including, not only the cases concerning Georgia, but also judgments in respect of other States.

Ms Tsulukiani underlined that the key purpose of the amendments was to make the criteria for cassation appeals clear and non-discriminatory and agreed with the importance of the future case-law of the Supreme Court in this regard. Mr Kublashvili informed that a special unit of the Supreme Court was in charge of the translation and distribution of the case-law of the ECtHR, not only for cases concerning Georgia, but also other Contracting States.

**The Commission adopted the Joint opinion (CDL(2014)038) by the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe, on the Draft Laws amending the Administrative, Civil and Criminal Procedure Codes of Georgia ([CDL-AD\(2014\)030](#)).**

## 10. Malta

The OSCE/ODIHR secretariat introduced the draft Joint Opinion on the draft law on political parties, requested by the Minister of Justice of Malta. The draft was generally clearly written and, if adopted, would constitute a significant step forward in ensuring the transparency of political parties' and campaign finance in Malta. The need for a comprehensive legislation in the field of political parties in Malta, and, particularly, of rules on the financing of political parties, had been emphasized by numerous institutions in the past, including the OSCE/ODIHR and the Council of Europe's Group of States against Corruption (GRECO). The draft law was therefore a welcome effort.

However, the draft law could benefit from certain revisions and additions, needed to ensure the effectiveness of its provisions, as well as their full compliance with international standards. In particular, the draft law did not regulate many aspects concerning the financing of political parties, including election campaign financing, foreign funding of political parties, restrictions on the use of personal resources by candidates, the use of public resources or intra-party gender equality. The important roles of the Electoral Commission and of the Minister of Justice in the enforcement and oversight of the future law also might be problematic and could be reconsidered. Finally, increased attention was recommended to the proportionality of the proposed sanctions.

**The Commission adopted the Joint Opinion by the Venice Commission and the OSCE/ODIHR on the draft Act to regulate the formation, the inner structures, functioning and financing of political parties and their participation in elections of Malta ([CDL-AD\(2014\)035](#)).**

## 11. Montenegro

Mr Neppi Modona pointed out that the draft law on the Constitutional Court was part of a larger package of judicial legislation, which had been drafted in order to prepare for Montenegro's accession to the EU. At the same time, it was required by the implementation of the 2013 constitutional reform on which the Venice Commission had given an opinion. The draft law provided a good basis for the work of the Constitutional Court.

The opinion recommended *inter alia* to extend the mandate of a judge until the successor takes up office, to remove the possibility for Parliament to be consulted before proceedings are initiated, to limit possibilities of initiation of cases by the Court itself; taking into account the rights of third parties in the re-opening of cases following the annulment of acts; and to set out clearly the parties and other participants for each type of proceedings. In order to ensure that the constitutional complaint remained an effective remedy under the ECHR, the second

alternative for Article 67 (mere declaration of unconstitutionality rather than the repeal of judicial acts) should be avoided.

Ms Branka Lakocevic, Deputy Minister of Justice of Montenegro, thanked the Commission for the opinion, which would be most useful for the debate between national experts. She agreed with most of the recommendations made. However, it would not be possible to extend by law the mandate of judges until their successor entered into office because this issue was regulated in the Constitution. The second alternative for Article 67 had been introduced in order to enable a dialogue between the Constitutional Court and the Supreme Court.

**The Commission adopted the opinion on the draft law on the Constitutional Court of Montenegro ([CDL-AD\(2014\)033](#)).**

## 12. Serbia

### *Joint opinion on the draft law amending the law on the financing of political activities of Serbia*

Mr Gonzalez Oropeza presented the draft joint opinion on the draft law amending the law on the financing of political activities of Serbia, jointly prepared by the Venice Commission and the OSCE/ODIHR. The opinion had been requested by the Minister of Finance of Serbia.

The proposed amendments introduced a number of technical and substantial changes in the law, largely improving the quality of the law. At the same time, the draft amendments could benefit from certain revisions and additions to ensure their full compliance with international standards. The four key recommendations were: to include provisions and guidelines in the law on the autonomous mandate of the Anti-Corruption Agency; to reconsider the level of public funding; to consider introducing an overall campaign expenditure limit and a party financing limit; and to lower the limits on private funding for both private individuals and companies.

**The Commission adopted the joint opinion on the draft law amending the law on the financing of political activities of Serbia ([CDL-AD\(2014\)034](#)).**

### *Opinion on the draft amendments to the Law on the High Judicial Council of Serbia*

Mr Hirschfeldt introduced the draft Opinion on the draft amendments to the Law on the High Judicial Council of Serbia, as amended by the Sub-Commission on the Judiciary. He stressed that the draft amendments were limited by the problematic provisions on the High Judicial Council in the current Constitution of Serbia. He informed the Commission that, during the visit to Belgrade, the rapporteurs were informed that a "Commission on revising the Constitution" had been set up in Serbia to work on the relevant amendments to the Constitution, which was to be welcomed.

A further main concern was the proposed dismissal procedure of members of the High Judicial Council. The draft opinion recommended that the new procedure, including a vote of confidence, be reconsidered and that the vote of confidence be removed.

Another concern was related to the early termination of the mandate of the Presidency of the Judicial Council: both the President (*ex officio*, term not set in the Constitution) and the Deputy President (elected, term set in the Constitution) under the new provisions would be replaced within 30 days of the entry into force of the amendments through elections. The

draft opinion recommended to at least maintain the Deputy President, who was already elected, in his/her position.

Also, the rapporteurs considered that, since the future Law on the High Judicial Council would need to be amended again once the Commission on revising the Constitution would have completed its work, it might be useful to wait with the amendments to the current law until the amendment of the Constitution.

**The Commission adopted the Opinion on the draft amendments to the Law on the High Judicial Council of Serbia ([CDL-AD\(2014\)028](#)).**

*Opinion on the draft amendments to the Law on the State Prosecutorial Council of Serbia*

Mr Esanu introduced the draft Opinion on the draft amendments to the Law on the State Prosecutorial Council of Serbia, as amended by the Sub-Commission on the Judiciary. He explained that the issues raised were very similar to those in the Opinion on the draft amendments to the Law on the High Judicial Council. First, a problematic new dismissal procedure which included a vote of confidence was introduced. The draft opinion recommended that the procedure be reconsidered and that the vote of confidence be removed. With respect to the Presidency of the State Prosecutorial Council, the draft opinion recommended that, since its Deputy President was elected, s/he should be maintained in his or her position.

Also, the rapporteurs considered that, since the future Law on the State Prosecutorial Council would need to be amended again once the Commission on revising the Constitution would have completed its work, it might be useful to wait with the amendments to the current law until the amendment of the Constitution.

**The Commission adopted the Opinion on the draft amendments to the Law on the State Prosecutorial Council of Serbia ([CDL-AD\(2014\)029](#)).**

### **13. Information on constitutional developments in other countries**

*Algeria*

Mr Mourad Medelci informed the Commission about the most recent constitutional developments in Algeria. The political reforms announced by the authorities included a constitutional revision as well as the adoption of new legislation in such important fields as elections, political parties and access to information. Proposed amendments to corresponding organic laws had been submitted to the Constitutional Council.

Algeria had decided to start the process of constitutional revision by setting up a special Constitutional Commission. This revision would focus on reinforcement of the independence of the judiciary, extension of powers of the Constitutional Council, modernisation of provisions on gender equality and several other areas.

*Kazakhstan*

Mr Rogov underlined the importance of the co-operation between Kazakhstan and the Venice Commission in such important fields as constitutional justice, reinforcement of the institution of Ombudsman and reform of the judiciary. Experts of the Commission had made

a substantial contribution during the revision of such important pieces of legislation as the Law on the Ombudsman institution, the Criminal Code and the Criminal Procedure Code.

Mr Rogov informed the plenary that a growing number of Institutions in Kazakhstan were seeking the advice of the Commission and expressed his hope that the number of concrete co-operation projects would increase in 2015.

*Sweden*

Mr Mats Melin, President of the Supreme Administrative Court of Sweden informed the Plenary about the constitutional reform in Sweden aimed at strengthening the independence of the courts and clarifying judicial powers, in particular the court's powers to verify the compatibility of public acts with international human rights treaties.

**14. Constitutional Justice**

*World Conference on Constitutional Justice*

Mr Kang informed the Commission that on 28 September - 1 October 2014, the Constitutional Court of the Republic of Korea had hosted the highly successful 3<sup>rd</sup> Congress of the World Conference in Seoul together with the Venice Commission.

Following meetings of the 10 regional and linguistic groups and the World Conference Bureau, the 3<sup>rd</sup> Congress had dealt with the topic "Constitutional Justice and Social Integration" in four sessions. The vivid discussions had enabled this topic to be approached from various angles. Upon a proposal by the Constitutional Court of Austria, the Bureau decided that each congress should include a separate session for a stock taking on the independence of constitutional courts and the 3<sup>rd</sup> Congress included such a session. For each session, key-note speakers had presented the replies to the questionnaire and rapporteurs summarised discussions at the closing session. The 1<sup>st</sup> General Assembly of the World Conference elected the Constitutional Courts of Austria, Lithuania and Turkey as members of the Bureau. The participants of the 3<sup>rd</sup> Congress adopted the Seoul Communiqué, which summarised the discussions and supported the proposal made by the Constitutional Court of Korea for the establishment of an Asian Court of Human Rights.

Mr Helgesen informed the Commission that many participants of the 3<sup>rd</sup> Congress had praised the outstanding organisation of this event. He warmly thanked the Constitutional Court of Korea for the excellent preparation of the 3<sup>rd</sup> Congress.

*Conference of European Constitutional Courts (CECC)*

Mr Gerhart Holzinger, President of the Constitutional Court of Austria, thanked the Venice Commission for its important contribution to the development of constitutional justice. Its members could be proud of its achievements in this field. The CECC, established in 1972 by the Constitutional Courts of Austria, Germany, Italy and Yugoslavia, had now 41 members and one associate member.

In May 2014, the Constitutional Court of Austria hosted the XVI<sup>th</sup> Congress of the CECC, which had dealt with the relations between constitutional courts, their relations with the European courts and the relations between the two European courts. The discussions in Vienna revealed that the role of constitutional courts was both to 'translate' European law into national categories and to legitimise it on the basis of constitutional law.

Challenges such as the constitutionalisation of the EU obliged the Courts to use more and more the comparative method, taking into account the case-law of their peers. This made networking

between the Courts even more important. There was a strong need for information platforms such as CODICES and the Venice Forum, which should be further improved. It was also necessary to strengthen solidarity with Courts which came under pressure from other state powers. While preserving national identities, step by step a common area of justice was being established in Europe, based on “unity in diversity”.

**15. Report of the 4<sup>th</sup> Intercultural workshop on Democracy “transparency and the rule of law as pre-conditions of equitable and sustainable development” (Rome, 9 October 2014)**

Mr Helgesen informed the Commission on the results and conclusions of the 4<sup>th</sup> Intercultural workshop on Democracy “transparency and the rule of law as pre-conditions of equitable and sustainable development” held in Rome on 9 October 2014.

The event had been co-organised by the Ministry of Foreign Affairs of Italy and the Venice Commission. The event brought together more than 100 participants from different countries, including Algeria, Egypt, Jordan, Lebanon, Libya, Morocco and Tunisia as well as the Palestinian National Authority.

The event focused on two main issues - transparency and the Rule of Law, and equitable and sustainable development. The key note speech was delivered by Ms Jacqueline Pechard Mariscal, Professor at the National University of Mexico. The workshop enabled a fruitful exchange of views on such problems as transparency as a means of democratic accountability, transparency as a quality of democratic governance, public scrutiny as an aspect of government regulation as well as on the effectiveness of the protection of political, civil, economic and social rights.

The text of the reports and written contributions presented during the activity will subsequently be published on the Web-site of the Venice Commission.

**16. Report of the joint meeting of the Sub-Commissions on Fundamental Rights, International Law and Latin America (10 October 2014)**

The Plenary examined the draft report on the implementation of human rights treaties in domestic law and the role of courts, as amended in the joint meeting of the Sub-Commissions. Ms Peters pointed out that the report had been requested by the Sub-Commission on Latin America in 2012. The purpose was to contribute to exploring the different elements which influenced the implementation of human rights within national legal orders and the role that national and international courts played in this context.

International human rights treaties impose obligations upon their States parties. This has important implications for all national authorities, not only the executive and the legislative bodies, but also the judiciary. The Venice Commission considered that courts are key actors which exercise in a meaningful way the review of the compatibility of domestic legislation with international human rights treaties. The Latin American experience, which had not been taken into consideration so far in the reports of the Venice Commission, shed new light on the topic of the relationship and interaction between international and domestic human rights law. The European and the Inter-American systems of protection of human rights are similar enough to enable a useful comparison of their respective impact in national legal orders. In this comparative approach, the report pointed out that the implementation of international human rights treaties is a task for all national authorities; a special place is, however, reserved for domestic courts.

Members were requested to send to the secretariat, by 4 November 2014, with a view to their inclusion in the Report, any additional technical elements and further references they might

consider necessary. Ms Alanis proposed the translation of the Report into Spanish and Portuguese.

**The Commission adopted the Report on the implementation of human rights treaties in domestic law and the role of courts ([CDL-AD\(2014\)036](#)).**

**17. Other business**

There was no other business.

**18. Dates of the next sessions**

The remaining session for 2014 was confirmed as follows:

101 <sup>st</sup> Plenary Session	12-13 December 2014
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Sub-Commission meetings as well as the meeting of the Council for Democratic Elections will take place on the day before the Plenary Sessions.

The schedule of sessions for 2015 was confirmed as follows:

102 <sup>nd</sup> Plenary Session	20-21 March 2015
103 <sup>rd</sup> Plenary Session	19-20 June 2015
104 <sup>th</sup> Plenary Session	23-24 October 2015
105 <sup>th</sup> Plenary Session	18-19 December 2015

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](#)