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COMMISSION EUROPEENNE POUR LA DEMOCRATIE PAR LE DROIT
(COMMISSION DE VENISE)

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

71^e SESSION PLENIERE
71st PLENARY SESSION

(Venice, 1-2 June 2007)
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RAPPORT DE SESSION

SESSION REPORT

1. Adoption of the Agenda

The agenda was adopted.

2. Communication by the Secretariat

Mr Gianni Buquicchio informed the participants that the Committee of Ministers of the Council of Europe accepted the accession of Morocco to the Venice Commission.

In addition, he thanked Mr Mifsud Bonnici for substituting the President of the Venice Commission before the Committee of Ministers and for presenting the Commission's annual report of activities for 2006. This presentation was met with much interest and the Venice Commission was congratulated for its good work. Mr Mifsud Bonnici also raised the issue of budgetary restraints and efficiency savings. A further two percent reduction for efficiency savings was difficult for the Venice Commission to achieve, as it was already running on a very tight budget and any further cuts would negatively affect its work. He also recalled the proposal that the Venice Commission should - like the Congress of Local and Regional Authorities of the Council of Europe, the Development Bank and the Human Rights Commissioner - not be dependent on a Directorate General, but rather report directly to the Secretary General. This question came up again due to the recent restructuring of the Council of Europe.

The Venice Commission learnt that Algeria made a formal request to the Council of Europe to become a member of the Venice Commission. Mr Buquicchio explained that this was the result of a process that had taken two years, which now culminated in this very positive step. He went on to explain that the Venice Commission was currently looking into co-operating with the Union of Arab Constitutional Courts, which should start at the beginning of 2008.

Mr Jan Helgesen informed the Venice Commission that Norway very much supports the progress made in the co-operation with the Union of Arab Constitutional Courts and that it intends to financially support the Venice Commission in this co-operation.

3. Co-operation with the Committee of Ministers

Ambassador Meta Bole, Permanent Representative of Slovenia to the Council of Europe, underlined the very important role that the Venice Commission continues to play in the adoption of constitutions in Europe and abroad. She believes that the constructive co-operation between its member states should continue and be furthered. She informed the participants that the Slovenian Constitution was adopted in December 1991 and that it had been amended just before accession to the EU and NATO and that Slovenia was one of the states, which had ratified the European Constitution. She went on to congratulate the Venice Commission for its good work and said that Slovenia will continue to support the Venice Commission's work.

Ambassador Piotr Świtalski, Permanent Representative of Poland to the Council of Europe, explained that Poland regards the Venice Commission as one of the most important and visible assets of the Council of Europe together with the European Court of Human Rights and the Commissioner for Human Rights. He explained that the relationship between the European Union and the Venice Commission was moving forward with the conclusion of a memorandum of understanding between the EU and the Council of Europe. He also referred to the Juncker report and the need for its implementation. In this respect, he believed that the Venice Commission should look into further ways of implementing final recommendation 5 of the Juncker report, so as to allow the EU to fully use the resources of the Venice Commission. He said that the Venice Commission should propose such possibilities in its future work, for instance before the Committee of Ministers on the basis of the Juncker report.

Ambassador Świtalski went on to explain that the co-operation agreement between the EU and the Council of Europe on the European Agency on Fundamental Rights is being finalised. Although no reference is made to the Venice Commission in this document, Poland believes that the Venice Commission should have a role in this Agency's activities.

He also made reference to the Forum on the future of democracy, saying that Poland had put forward the idea of creating such a forum and that it believes that the Venice Commission should also have a role in this. He explained that the expertise offered by the Venice Commission to non-member states, especially Belarus, is important. In this respect, Poland would like to encourage the Venice Commission to help Belarus to draft modern legislation for democracy. He said that Poland fully supports the Venice Commission in seeking links with non-European countries.

Mr Buquicchio explained that the co-operation between the Venice Commission and the EU was excellent and that, since the Warsaw Summit, it was constantly being reinforced. The same was true for the co-operation with the OSCE and ODIHR and this was visible through the joint adoption of opinions on electoral law. The EU was very interested in co-operation with respect to the countries of the Eastern Adriatic, the Balkans and Central Asia. The Venice Commission has also started co-operation with Kazakhstan, with the support and encouragement of the EU.

With respect to the European Agency on Fundamental Rights, Mr Buquicchio noted that the Venice Commission should make contact with this new institution once it is up and running and see whether co-operation is possible.

4. Co-operation with the Parliamentary Assembly

Mr Andrew Drzemczewski informed the Venice Commission about the current work of the Parliamentary Assembly, explaining that an all-day debate on the state of human rights and democracy in Europe had taken place that presented a joint report based on the reports of the Monitoring Committee, the Political Rights Committee and the Committee on Legal Affairs and Human Rights. The result showed that, although much was achieved, a gap remained between standards on paper and the reality on the ground. Serious violations continue to take place in Europe, which include extra-judicial killings, forced disappearances and torture and the violators still go unpunished.

In its Resolution 1551 (2007) and Recommendation 1792 (2007) on fair trial issues in criminal cases concerning espionage or divulging state secrets, the Parliamentary Assembly concluded that legislation on state secrecy in many Council of Europe member states was currently rather vague or, on the contrary, overly broad, and could be construed in such a way as to gag or suppress a wide range of legitimate activities carried out by journalists, scientists, lawyers or other human rights defenders. It therefore recommended that such laws always follow certain basic principles: information that is already in the public domain should never be considered to be a state secret, neither should information shared as part of international scientific co-operation or information revealed by whistleblowers who expose corruption or human rights violations.

Mr Drzemczewski said that the adoption of Mr Marty's final report on Secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states, is foreseen for the next meeting of the Committee on Legal Affairs and Human Rights in June 2007. It will also adopt a report on the promotion by Council of Europe member states of an international moratorium on the death penalty and a report on the principle of the rule of law and it will start work on two reports on the legal recognition of same-sex partnerships in Europe and on the Council of Europe Commissioner for Human Rights – stock-taking and perspectives.

On another topic, Mr Holovaty pointed out that the rule of law is interpreted and translated in different ways in different countries and that this could lead to an East versus West view of the principle. He informed the Venice Commission that Mr Jürgens, the author of the report on the rule of law, may - with the approval of the Parliamentary Assembly – return to it for a clarification of the meaning of this principle.

5. Council of Europe Development Bank

Mr Nunzio Guglielmino underlined the complementary nature of the activities of the Council of Europe Development Bank and the Venice Commission and wished to reinforce the co-operation between the two. He explained that the Bank has a social role to play with the granting of loans and he provided a brief overview of the Bank's current activities. He informed the Venice Commission that since the Warsaw Summit, the Bank had experienced a sectorial and geographical enlargement and that it can now intervene in Eastern Europe as well as in the Caucasus.

6. Follow-up to earlier Venice Commission opinions

- Opinion on a possible solution to the issue of decertification of police officers in Bosnia and Herzegovina ([CDL-AD\(2005\)024](#)).

The Secretariat recalled that the vetting procedure of Bosnian policemen carried out by the United Nations in 2002 resulted in some 600 of them being denied certification or decertified for life. More than 260 of them challenged this before the local courts, which however had no jurisdiction to deal with these complaints that were directed, in substance, against the United Nations. The Venice Commission found that the vetting procedure did not respect Article 6 of the European Convention on Human Rights, and that the UN was solely responsible for this, since the Bosnian authorities were not given the possibility to refuse the implementation of the UN's decisions. The Commission recommended that the UN remedy the situation itself, for example by setting up a panel with the task of reviewing the cases which had been challenged, and this time in a manner compatible with Article 6 European Convention on Human Rights.

The Secretariat informed the Commission that thanks, *inter alia*, to the involvement of the Commissioner for Human Rights of the Council of Europe, the Chairman of the United Nations Security Council, in a letter of 30 April 2007, had accepted that persons who had been denied certification be allowed to apply for positions in BiH law enforcement agencies. This decision remedied the life-long effect of the decertification decisions, but not the breach of Article 6, and did not amount to any acknowledgment of the breach. It was, however, a compromise solution which had been welcomed in BiH, after some years of virulent media campaigns, protests and hunger strikes by the affected policemen.

- Opinion on the draft laws on the judiciary and on the status of judges in Ukraine ([CDL-AD\(2007\)003](#)).

Mr Holovaty informed the Commission that subsequent to the Commission's opinion on the draft laws on the judiciary and on the status of judges in Ukraine, the parliamentary committee on judiciary has been given the task of merging the two drafts into a single one and preparing it for the second reading.

7. Albania

Mr Velaers presented his comments as well as the comments by Mr Fischbach, the second rapporteur, who was not able to participate in the session. The legalisation of illegal buildings was an important problem in Albania. It was estimated that about 20-30% of the inhabitants were living in illegal dwellings. The law did not only legalise the buildings, but it also transferred

the property of the respective construction parcel from the original owner through the state to the owner of the legalised building. Following a complaint by the original owners, the Constitutional Court asked the Venice Commission to provide an *amicus curiae* opinion on this issue.

From the point of view of the European Convention on Human Rights, the principle of legality was respected on the basis of the law. Under the Albanian constitutional law however, the fact that there was no explicit expropriation procedure with respect to the original owners, may give rise to problems - but this was for the Albanian Constitutional Court to decide. Both under the European Convention on Human Rights and in comparative constitutional law, the fact that a private party was the ultimate beneficiary of the expropriation did not mean that it could not be considered in the public interest. There were good arguments in favour of assuming that there was a strong public interest for this solution. In addition, the principle of proportionality seemed to be respected, although the rules on compensation were not very clear and difficult to assess for a foreigner. The European Convention on Human Rights required the possibility of adversarial proceedings in the case of an expropriation and the Albanian Constitution required a legal remedy. Such remedy was not provided for in the Law under consideration, but might be found elsewhere in the Albanian legal order.

Ms Nussberger, as the third rapporteur, said that she was somewhat more sceptical as to the justification of the Law. In principle, there was certainly a legitimate aim; however, it was troubling that the interests of illegal builders prevailed in all cases over the interests of legal owners. The rules on compensation and the existence of a legal remedy were also unclear.

Mr Bianku said that the Constitutional Court found the comments of all three rapporteurs extremely useful. He could confirm that there was a need for the regularisation of the situation in Albania, but it was also necessary to carry out at the same time and in an appropriate manner the process of compensation of the old owners.

In the ensuing discussion it was, on the one hand, underlined that the European Court of Human Rights left a large margin of appreciation to states, especially when formerly communist countries were regularising the property situation. On the other hand, it was questioned whether the Law did not go too far.

The Commission asked the reporting members to prepare, together with the Secretariat, a consolidated opinion and to forward it to the Constitutional Court of Albania.

8. Arménie

A sa session de mars 2007, la Commission de Venise a adopté un avis conjoint avec l'OSCE/BIDDH sur le Code électoral arménien tel qu'amendé au 22 décembre 2006 ([CDL-AD\(2007\)013](#)). Entre temps, de nouveaux amendements ont été apportés à ce texte (voir [CDL-EL\(2007\)008](#) et [CDL-EL\(2007\)010](#)). Dès lors, MM. Ciosa Montero, et Vollan ([CDL-EL\(2007\)014](#) et [CDL-EL\(2007\)015](#)) ainsi que l'OSCE/BIDDH ont élaboré des commentaires sur la base desquels le secrétariat de la Commission est en train d'élaborer un projet d'avis conjoint en coopération avec le secrétariat de l'OSCE/BIDDH. M. Garrone informe la Commission que les amendements sont liés essentiellement à l'introduction de la double nationalité en droit arménien, et n'ont pas eu d'effet réel sur les élections du 12 mai 2007. Les citoyens arméniens à l'étranger ne peuvent plus voter que s'ils se rendent en Arménie. Le problème principal est l'exclusion de l'éligibilité des doubles nationaux résidant à l'étranger, qui ne paraît pas conforme aux standards du patrimoine électoral européen.

La Commission charge le secrétariat de terminer la préparation de l'avis conjoint sur les amendements de février 2007 au Code électoral arménien en coopération avec l'OSCE/BIDDH, et de le transmettre sans délai aux autorités arméniennes.

9. Azerbaijan

Mr Abdullayev, President of the Constitutional Court, informed the Commission that, following the 2002 constitutional referendum, a number of legislative reforms had been carried out and thanked the Venice Commission for its useful opinions. The development of the rule of law in Azerbaijan required that the Constitutional Court occupy a special place in the legal system. Therefore, the judges of the Court were of the opinion that it was necessary to further develop procedural guarantees for the implementation of judgments by the Constitutional Court. Towards that end, the Court would be grateful to receive the Venice Commission's assistance.

The Secretariat informed the Commission on the co-operation between the Venice Commission and OSCE/ODIHR on the revision of the Electoral Code of Azerbaijan. Two meetings between the representatives of the authorities and the Venice Commission, ODIHR and IFES have taken place: the first in Baku, on 11-12 April 2007 and the second, in Strasbourg on 30 May 2007. Both focused on the latest proposals to amend the Electoral Code of Azerbaijan. A number of issues addressed were settled during the meetings, notably provisions on electoral campaigns as well as inking and voting procedures on election day. The exchange of views on complaints and appeals and on the composition of the electoral commissions will continue.

The Secretariat also informed the Commission on the round tables on specific issues such as complaints and appeals and the composition of election commissions. These would be organised in Baku before 15 September 2007. Similar activities on problematic provisions of the Code could be organised before September 2007.

The Commission took note of the information provided by the Secretariat on the ongoing co-operation with the authorities on the revision of the Electoral Code.

10. Croatia

The Commission examined the comments by Mr H. Torfason ([CDL\(2007\)050](#)) on the draft Law on the State register of voters ([CDL\(2007\)049rev](#)). The rapporteur informed the participants that he had taken the observations by the expert of OSCE/ODIHR into account when drafting his text. He stressed that, in general, he shared the opinion of ODIHR, but proposed some additional elements to be included in the text of the joint opinion by OSCE/ODIHR and the Venice Commission. According to Mr Torfason, the Law on the State register of voters was very detailed and included all necessary elements for securing the electoral rights of voters and it would certainly help to further improve the electoral process in Croatia.

The Commission endorsed the individual comments by Mr Torfason and instructed the respective secretariats of the Venice Commission and OSCE/ODIHR to finalise the joint opinion and to forward it to the authorities of Croatia.

11. Finlande

M. Pekka Hallberg, Président de la Cour administrative suprême de Finlande, informe la Commission des développements constitutionnels récents dans son pays. La nouvelle

Constitution, entrée en vigueur en 2000, est fondée sur les principes de la démocratie et de la primauté du droit, qui sont garantis de manière très stable et fonctionnelle. M. Hallberg indique combien il apprécie que la Commission participe à l'évaluation de la Constitution. La Constitution antérieure, adoptée après la Première Guerre Mondiale, n'avait pendant longtemps guère été modifiée. Une première série importante d'amendements avait déjà eu lieu en 1987, concernant notamment l'élection présidentielle, la dissolution du Parlement et la politique économique.

La nouvelle Constitution a en particulier :

- précisé les relations entre les organes de l'Etat ;
- amélioré les dispositions relatives aux droits et libertés fondamentaux ;
- tenu compte de l'intégration européenne, même si l'appartenance à l'Union n'est pas mentionnée expressément.

Maintenant, l'élection du Président de la République a lieu au suffrage direct. Le rôle du Parlement dans le choix des ministres a été accru. En politique étrangère, le Président a encore un rôle prépondérant, mais le gouvernement est responsable des affaires européennes. Les règles en matière de droits de l'homme, révisées en 1995, vont souvent plus loin que les traités internationaux en la matière. Le contrôle concret de constitutionnalité des lois a été introduit.

Une délégation de la Commission composée de MM. Bartole, Jensen, Paczolay, Buquicchio et Garrone se rendra dès lors en Finlande les 7-8 juin prochains pour lancer l'activité de coopération sur l'évaluation de la Constitution. Elle rendra visite au ministère de la Justice le 7 juin au matin, et discutera notamment de la nécessité d'évaluer la Constitution ainsi que du débat actuel sur d'éventuels amendements à la Constitution. L'après-midi sera consacré à une visite au Parlement, où seront abordés les thèmes de « la Constitution et le Parlement » et de « la Constitution et le rôle du Président de la République ».

La délégation se rendra le 8 juin à Turku pour participer à un séminaire organisé par le Professeur Viljanen et consacré à la question des droits de l'homme, dans la Constitution et dans les questions relatives à l'Union européenne, ainsi qu'au rôle des traités internationaux en matière de droits de l'homme. Le thème de l'autonomie locale sera aussi abordé.

12. Kazakhstan

Messrs Torfason and Paczolay presented the draft Opinion on the possible reform of the ombudsman institution of Kazakhstan. The National Human Rights Commissioner (ombudsman) had put six questions to the Venice Commission.

A delegation of the Commission, composed of Messrs. Torfason and Colliard, accompanied by Messrs. Buquicchio, Dürr and Kouznetsov visited Kazakhstan on 14-15 May 2007 and met with, *inter alia*, Mr Kalyuzhnii, the Head of the National Centre for Human Rights, which provides the staff support for the Human Rights Ombudsman, and Ms Mektepbayeva, the Head of the Expert Department of the ombudsman's office.

Question 1 related to the issue of whether the ombudsman institution should have a legal and constitutional basis (the present institution was set up by presidential decree). The reply given was a positive one. While it is true that many constitutions do not provide for the institution of the ombudsman, it is nevertheless important that the existence of the institution provided for at the constitutional level in order to guarantee the description of its characteristics and the powers of the office of the ombudsman and the basic terms of his/her appointment (election by a qualified majority in Parliament).

The rapporteurs also gave a positive reply to the second question on whether the ombudsman should have the right to appeal to the Constitutional Council to rule on the constitutionality of legislation concerning human rights (abstract review).

However, in reply to the third question on whether the ombudsman should have a formal right to introduce legislation to Parliament, the rapporteurs came to the conclusion that no such right should be introduced, because it might draw the institution into politics since the ombudsman would have to seek political support for the bill introduced by him/her. The ombudsman could, however, use his reports before Parliament and for the President to call for legislation to be introduced by those bodies.

In reply to the fourth question on whether the ombudsman should be endowed with the right to give authentic interpretations of national legislation and international human rights treaties in the field of human rights, the rapporteurs came to the conclusion that the ombudsman should be able to state his/her opinion on the interpretation of such texts. However, to endow such statements with binding effect would go beyond the scope of the ideal role for the institution and would be in conflict with the role of the courts.

Asked whether it should be possible to establish specialised (e.g. for children) or regional ombudsman offices, the rapporteurs concluded that in Kazakhstan, where the ombudsman institution is presently in a stage of consolidation and development, it would be best to organise the functions of the specialised ombudspersons within the overall institution of the national Ombudsman.

Finally, the draft Opinion points out that the legislation on the ombudsman should provide for a budgetary allocation that is adequate for the needs of the ombudsman in order to ensure a full, independent and effective discharge of the responsibilities and functions of the institution. The law should also provide for a relative budgetary independence of the ombudsman by prescribing that the institution itself submit a proposal for its budget.

Ms Mektepbayeva thanked the rapporteurs for the opinion and informed the Commission that the Ombudsman of Kazakhstan agreed with it. Its implementation, drawn from the European experience, will allow for an improved effectiveness of this institution.

The Commission adopted the Opinion on the Possible Reform of the Ombudsman Institution in Kazakhstan (CDL-AD(2007)020) and forwarded it to the Office of the Ombudsman.

Mr Abishev, member of the Constitutional Council of Kazakhstan, pointed out that the co-operation between the Venice Commission and Kazakhstan, in particular its Constitutional Council, was developing in a very positive way. Following a visit of a delegation of the Commission to Astana in 2006, the Council has participated twice in activities of the Commission.

Since its independence, Kazakhstan has become a leading country in Central Asia and a role model for other countries. In order to promote democracy, the President of the Republic established a working group on the reform of the Constitution under his own chairmanship. Mr Rogov, Chairman of the Constitutional Council, was appointed deputy chairman of that working group. The reforms were to cover the following points:

1. reinforcing the powers of control of Parliament (e.g. the power to appoint members of the vote counting committee should devolve from the President to Parliament);

2. the introduction of a mixed proportional / majority electoral system giving political parties better opportunities to participate in the elections;
3. the revision of the rules of financing of political parties;
4. the transfer of the power to order the detention of individuals from the prosecutors to the courts;
5. the establishment of an effective system of local-self government.

In the process of constitutional reform, the advice of European and US experts would be taken into account. However, the result of the reform would also depend on a change of attitude of the actors involved.

Mr Buquicchio replied that the Venice Commission was ready to assist Kazakhstan within the framework of its Joint Programme with the European Commission.

The Secretary of the Commission informed the participants about the visit of a delegation of the Venice Commission, including Messrs Colliard, Torfason and members of the Secretariat, to Almaty and Astana from 14 to 17 May 2007. In Almaty, the delegation met with representatives of the European Commission mission to Kazakhstan and several opposition forces. The programme in Astana included meetings with the Vice-Minister of Justice, the Ombudsman, the Chairman of the Constitutional Council and the First Vice-Minister of Foreign Affairs. Meetings with the authorities were very interesting and useful for possible future co-operation, however, the Secretary of the Commission expressed his concern about the slow pace of co-operation with Kazakhstan and expressed his hope that work on concrete projects would start already in 2007.

<p>The Commission took note of the information provided by the Secretary of the Commission.</p>
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13. Kyrgyzstan

Ms Baekova informed the Commission that the « missing » members of the Constitutional Court had now been replaced by newly appointed members and the Court could now, once again, form a quorum and resume its work. A working group under the responsibility of the new Prime Minister prepared constitutional amendments and Parliament sent these to the Constitutional Court for consideration. The Court also received a request to review the constitutionality of the two new versions of the Constitution adopted in November and December 2006 by Parliament. Procedural violations occurred during the adoption of these texts.

14. Moldova

M. Garrone indique que M. Lupu, Président du Parlement moldave, a soumis le 15 janvier 2007 au Conseil de l'Europe une demande d'expertise d'un projet de loi sur les partis politiques en Moldova (CDL(2007)017). Deux experts, MM. Marcin Walecki, pour la Direction Générale des Affaires Juridiques et Hans-Heinrich Vogel, membre de la Commission, ont présenté des commentaires (voir le document CDL(2007)013) qui portent notamment sur la question du financement des partis. Le texte constitue un net progrès, mais un certain nombre de restrictions excessives subsistent, notamment en matière de conditions relatives au nombre de membres des partis, d'interdiction des partis et d'exclusion de l'appartenance d'étrangers aux partis et de financement de l'étranger. Une réunion s'est tenue en présence des experts les 25 et 26 mai à Chişinău, et a visé à convaincre les parlementaires d'adopter une nouvelle loi tenant compte des recommandations du Conseil de l'Europe et de l'OSCE/BIDDH.

M. Petit, de l'OSCE/BIDDH, confirme que les commentaires du Conseil de l'Europe et de l'OSCE/BIDDH ont été coordonnés et que le projet constitue un progrès par rapport à la situation antérieure.

La Commission entérine les observations de M. Vogel (CDL(2007)013) sur le projet de loi sur les partis politiques en Moldova (CDL(2007)017).

15. Montenegro

Mr Bradley informed the Commission that the new draft Constitution of Montenegro had been received on 16 April 2007 and that a delegation composed of himself, Mr Endzins, Mr Markert and Ms Simona Granata-Menghini were in Podgorica on 25 and 26 April 2007 in order to participate in a series of meetings with the Montenegrin authorities and in a public round-table on constitutional reforms.

The draft Constitution gave rise to two major problems: (1) it provided no acceptable alternatives to the current system of appointment, career and dismissal of judges and indeed preserved an excessive level of parliamentary control over them and over the Judicial Council, contrary to a specific commitment made towards the Parliamentary Assembly of the Council of Europe; and (2) the structure of the human rights chapter neither followed the European Convention on Human Rights nor the Charter for Fundamental and Minority Rights of Serbia and Montenegro closely enough. The latter point, in particular, resulted in certain gaps in the human rights protection system, which is contrary to a specific commitment made towards the Parliamentary Assembly of the Council of Europe, and could give rise to doubts as well as misunderstandings by the Montenegrin judges on the interpretation of the relevant constitutional provisions.

Mr Neppi Modona, who had previously participated in exchanges with the Montenegrin authorities on the independence of the judiciary, reiterated the importance for all judges to be appointed by the Judicial Council and not by Parliament. At the same time, he underlined the need for the Judicial Council to be composed in a manner that guarantees its independence, but prevents judges from having complete freedom to govern themselves without any democratic oversight. He was surprised about the proposal to allow Parliament to elect the President of the Supreme Court. As regards the competences of the Constitutional Court and the possible overlap with those of the Supreme Court, he considered that detailed regulation of this matter should be covered by the law.

Mr Denis Petit, Head of the Legislative Support Unit of OSCE/ODIHR, informed the Commission that their assessment of the draft Constitution coincided and was indeed to be seen as complementary to that contained in the draft Opinion.

Ms Annelies Verstichel of the Office of the OSCE High Commissioner on National Minorities, informed the Commission that the High Commissioner had visited Montenegro at the beginning of April 2007. She herself participated in the round table in Podgorica at the end of April 2007. She conveyed the Commissioner's support for the Venice Commission's assessment of the draft constitutional provisions relating to minority rights and protection.

Mr Ranko Krivokapic, Speaker of the Parliament of Montenegro, expressed his gratitude to the Venice Commission for its continuing support. He underlined that the constitutional reform process in Montenegro had been a delicate exercise of balancing standards on the one hand, and the needs of the majority and the opposition on the other hand. He considered that the Commission's Interim Opinion would be very useful to improve the text, which the Montenegrin authorities were willing to do. The public discussion of the draft Constitution had ended on

28 May 2007 and for the following two weeks the parliamentary committee was to consider the proposals received (over 200). As concerned the human rights chapter, he expressed his will to take the Commission's suggestions on board. As concerned the judiciary, he reiterated that the Montenegrin situation was peculiar and several persons, including junior judges, did not wish Parliament to withdraw from the appointment procedure. Nevertheless, the Montenegrin authorities had committed themselves to doing this and they would keep their word. Montenegro was willing to co-operate fully with the Venice Commission. The new draft Constitution would be sent to it, and new meetings could take place in Podgorica with Commission members in order to ensure that the text to be submitted to Parliament for approval would meet all European standards.

Mr Holovaty said that this Interim Opinion would be used by the Monitoring Committee of the Parliamentary Assembly of the Council of Europe and reiterated the importance for Montenegro to respect its seven commitments.

Mr Darmanovic explained that the parliamentary committee charged with the preparation of the draft Constitution had intended to produce a standard-complying text, but had failed to do so for technical reasons. He said that the majority of Montenegrin MPs intended to comply with the Venice Commission's suggestions.

The Commission adopted the Interim Opinion on the draft Constitution of Montenegro (CDL-AD(2007)017) and forwarded it to the authorities of Montenegro.

16. Serbia

Mr Buquicchio informed the Commission that prior to the Plenary Session in Strasbourg, he had met with Mr Markovic, Minister for Local Authorities and Regionalisation of Serbia, in order to discuss the implementation of the new Constitution. Mr Markovic was aware of the shortcomings of the new text, but considered that it could be improved through implementing legislation. A constitutional reform was not foreseen for the near future.

The Secretariat further informed the Commission that a request for the assessment of the draft Law on the People's Advocate of Kosovo had been received from the Assembly of Kosovo. UNMIK had endorsed this request and Mr van Dijk prepared an opinion on this draft Law. The Office of the Ombudsman of Kosovo was currently regulated by UNMIK Regulation 2006/06; responsibility for the continuing operation of the institution was transferred to the local authorities in 2006. The draft Law was greatly inspired by this Regulation, i.e. from the institution which already existed in Kosovo. Nevertheless, certain improvements were possible, notably: the structure of the office and its competence with respect to the judiciary could be simplified; the election procedure, as well as the procedure for suspension and removal from office should respect the independence of the ombudsman.

The Commission adopted the Opinion on the draft Law on the people's advocate of Kosovo (CDL-AD(2007)024).

17. Ukraine

M. Paczolay présente le projet d'avis sur l'opposition parlementaire en Ukraine. Il rappelle que celui-ci fait suite à l'avis préliminaire adopté par la Commission lors de sa 70^e session (CDL-AD(2007)015). Depuis lors, les rapporteurs ont pu se baser sur un rapport d'expert sur la législation ukrainienne pertinente réalisé par une consultante indépendante (CDL(2007)056) et ils ont eu le temps d'effectuer une analyse plus approfondie du projet de loi. Le projet d'avis

confirme et complète les grandes lignes de l'avis préliminaire. La création d'une loi spécifique sur le statut de l'opposition parlementaire est très atypique en Europe et la transposition, en droit ukrainien, de solutions largement inspirées du modèle dit de « Westminster » ne va pas sans poser de nombreux problèmes. Ainsi, le projet de loi risque de porter préjudice aux droits des députés individuels et de groupes politiques qui, pour des raisons qui leur sont propres, ne rejoindront ni la majorité ni l'opposition, deux catégories bipolarisées devant se constituer selon une procédure excessivement rigide. De plus, l'intégration du projet de loi dans l'ordre juridique ukrainien ne semble pas être réglée de façon satisfaisante, ce qui ne manquera pas de générer des confusions et une insécurité juridique préjudiciable aux activités du parlement. M. Paczolay propose de compléter les conclusions pour mieux tenir compte des nombreuses insuffisances du projet de loi.

M. Holovaty indique qu'il partage entièrement l'argumentaire du projet d'avis mais il est d'avis que les conclusions, relativement positives, ne reflètent pas suffisamment les nombreuses critiques figurant dans le corps du projet d'avis. Il appuie donc la suggestion de M. Paczolay de rajouter une phrase dans les conclusions visant à mettre en garde contre le risque de limitation des droits des députés et des partis qui ne rejoindront ni la majorité, ni l'opposition.

La Commission de Venise adopte l'avis sur l'opposition parlementaire en Ukraine avec un amendement (CDL-AD(2007)019).

Concernant le projet d'avis portant sur l'introduction du mandat impératif dans les conseils locaux et le parlement de Crimée, M. Paczolay rappelle que la Commission avait décidé, lors de la 70^e session plénière, de reporter l'adoption du texte à sa 71^e session suite à une demande de la Présidence ukrainienne. Comme la Commission a déjà eu l'occasion de le dire à plusieurs reprises, le mandat impératif ne se concilie pas avec la liberté et l'indépendance du mandat de député qui prévaut dans la très grande majorité des démocraties libérales. Bien qu'il soit expressément prévu par la Constitution ukrainienne, le mandat impératif n'est donc pas conforme au patrimoine constitutionnel européen et le projet d'avis se montre très critique à son égard.

M. Holovaty informe la Commission qu'il a déjà introduit auprès de la Verkhovna Rada d'Ukraine une motion visant à abroger le mandat impératif dans les conseils locaux et en Crimée, motion qui a fait l'objet d'un soutien unanime en commission parlementaire. Il souligne que l'avis de la Commission sera très utile pour permettre au Parlement de poursuivre l'examen de cette motion et pour éclairer la Cour constitutionnelle qui a aussi été saisie de cette question.

La Commission de Venise adopte sans amendement l'avis portant sur l'introduction du mandat impératif dans les conseils locaux et le parlement de Crimée (CDL-AD(2007)018).

The Commission held an exchange of views with Ms Nataliya Bohasheva and Mr Yuriy Kliuchkovskyi, MPs from Ukraine, and examined the draft Joint Opinion ([CDL\(2007\)045](#)) of the Venice Commission and OSCE/ODIHR on the draft Law on the State register of voters of Ukraine ([CDL\(2007\)044](#)) drawn up on the basis of comments by Mr Sanchez Navarro and OSCE/ODIHR, with a view to its adoption.

The Secretariat presented the text of the draft opinion on the State register of voters of Ukraine. In 2005 the Commission adopted an Opinion on the previous draft Law on State register of voters. The Law examined in 2007 had undergone serious revision and a number of critical comments by the Venice Commission and OSCE/ODIHR were integrated into the new text.

Although the general assessment of the Law was positive, the rapporteurs pointed out that there were a number of inconsistencies in the terminology used in the text and that certain provisions concentrated too narrowly on minor details and could therefore compromise its implementation. The opinion stressed that the authorities in charge of implementing this Law should be given a reasonable time frame for its implementation.

Mr Kliuchkovskiy thanked the Commission for its commitment to advise the authorities of his country on different issues. The said Law was drafted using the experience of the Ukrainian authorities in using the data-base of tax-payers. He agreed that some provisions of the Law needed further clarification during its implementation. However, Mr Kliuchkovskiy insisted that the detailed character of the provisions of the Law were necessary and useful. The system for up-dating the register four times a year was based on the assumption that new technologies would facilitate such procedures. He expressed the opinion that the latest political developments in Ukraine could endanger the good implementation of the Law on the State Register. According to Mr Kliuchkovskiy, the time frame for implementing this Law should be respected.

The Commission adopted the opinion on the draft Law on the State register of voters of Ukraine (CDL-AD(2007)026) and instructed the secretariats of the Venice Commission and OSCE/ODIHR to forward the text to the authorities of Ukraine as soon as possible.

The Commission held an exchange of views and examined the draft Opinion based on comments by Mr Sanchez Navarro ([CDL\(2007\)047](#)) on the legislation on early elections in Ukraine and the possibilities of improving the electoral legislation in the light of European practice, with a view to its adoption (see [CDL-EL\(2005\)021](#) and [CDL\(2006\)070](#)).

The Secretariat presented the draft opinion on early elections, pointing out that in accordance with the request of the Parliamentary Assembly of the Council of Europe, the text focused mostly on legislation for organising early elections. Provisions on the pre-term termination of the powers of the Rada were not examined. The main conclusions of the opinion were that the Constitution, as well as the Electoral Law, provided for the basic elements on pre-term elections. Nevertheless, some legislative provisions and procedural aspects of their implementation seemed to be unclear and/or not sufficient for fully ensuring the electoral rights of voters. In order to overcome these problems, the Central Electoral Commission should fully use its powers in implementing the existing legal instruments on pre-term elections.

Mrs Bohasheva was of the opinion that Ukraine did not fulfil a number of recommendations of the Code of good practice in electoral matters, notably on the stability of the Electoral Law. Legislation on elections was not respected by different political forces and the Central Electoral Commission did nothing to implement the decision of the Head of State to organise pre-term elections. Mrs Bohasheva informed the Commission that the Rada was considering making amendments to the electoral legislation which, in her opinion, would create additional problems, such as the immediate implementation of the Law on the State Register of voters, the introduction of a minimal participation threshold or restrictions on the voting rights of citizens residing abroad.

Messrs Colliard and Holovaty considered that the Commission's opinion should include a recommendation on the financial resources allocated for early elections.

The Commission adopted the Opinion on the legislation on early elections in Ukraine (CDL-AD(2007)021) and asked the Secretariat to introduce the proposed amendments to the text before transmitting it to the Parliamentary Assembly of the Council of Europe.

18. Autres développements constitutionnels

➤ Roumanie

M. Mihai informe la Commission des développements constitutionnels récents en Roumanie, lesquels ont été marqués par l'organisation d'un référendum initié par le Parlement et visant à destituer le Président de ses fonctions. Cette procédure, qui se distingue de celle de «*impeachment*» prévu par la Constitution de 2003 pour haute trahison, a vu le Parlement voter le 19 avril 2007 la suspension du Président pour une série de manquements graves à ses devoirs. Après que la Cour constitutionnelle eut donné un avis consultatif négatif sur la question, le référendum a eu lieu le 19 mai 2007 et a vu 74% des électeurs voter pour le maintien du Président dans ses fonctions (taux de participation : 44%). A l'heure actuelle, d'intenses consultations politiques ont lieu et portent, notamment, sur la possibilité d'organiser des élections législatives anticipées.

19. Coopération avec le Congrès des pouvoirs locaux et régionaux du Conseil de l'Europe

M. Whitmore, Président de la Commission Institutionnelle du Congrès, indique que celui-ci s'est doté d'une nouvelle Charte en date du 2 mai 2007 et que cette dernière sera transmise à la Commission de Venise. Il souhaiterait que le Congrès se tourne vers la Commission pour élucider les questions liées à une éventuelle adhésion de l'Union européenne à la Charte européenne de l'autonomie locale. Quant aux travaux menés par la Chambre des Régions sur un projet de Charte européenne de l'autonomie régionale, il a rencontré de nouvelles difficultés récemment, en particulier du fait du refus du Comité des Ministres de soutenir un tel projet si le mot « Charte » continuait à être utilisé pour désigner un tel instrument. Là aussi, le Congrès pourrait chercher à obtenir des éclaircissements juridiques de la part de la Commission de Venise. Enfin, M. Whitmore informe la Commission que le Code de bonne conduite en matière référendaire (CDL-AD(2007)008) a été adopté tel quel par le Congrès, sans débat.

20. Coopération avec l'OSCE/BIDDH

M. Petit informe la Commission que le BIDDH a entrepris de renforcer ses capacités dans le domaine de l'assistance législative, sans se limiter au droit électoral. Ainsi, un département spécial a été créé au sein du BIDDH et a déjà adopté plus de 80 avis sur des projets de lois spécifiques dans différents pays. L'idée est de se pencher sur le processus législatif dans sa globalité, c'est-à-dire depuis le moment où un projet de loi est envisagé jusqu'au suivi de sa mise en œuvre une fois qu'il est entré en vigueur. Au-delà du texte du projet de loi, le BIDDH considère qu'il est particulièrement important d'examiner la façon dont les mécanismes de consultation et de participation des milieux intéressés fonctionnent, en amont, pour parvenir à de bonnes lois répondant à des besoins concrets. Jusqu'ici, la Géorgie a fait l'objet d'un examen global de plusieurs de ses lois et un travail similaire a débuté pour « l'ex-République yougoslave de Macédoine ». L'Ukraine et la Moldova pourraient suivre. M. Petit indique qu'au cas où la Commission de Venise souhaiterait se joindre à cet exercice, en plus des nombreuses coopérations qui existent déjà et selon des modalités à déterminer, le BIDDH en serait très heureux.

21. Co-operation with the Ibero-American Conference of Constitutional Justice

Mr Dürr informed the Commission that the Ibero-American Conference of Constitutional Justice, which unites 22 courts in Latin America, Spain, Portugal and Andorra, had held its 5th Conference in Santiago on the topic "The Constitutional Judge" upon invitation by the Constitutional Court of Chile. At that Conference, Mr Dürr had offered the participating courts a co-operation similar to that existing with the Francophone courts (ACCPUF), the Southern

African courts (SAJC) and the Asian courts by opening the Commission's CODICES database to these courts. Since then, a draft co-operation agreement was prepared with the Secretary General of the Ibero-American Conference, Mr Perez Tremps, Judge at the Constitutional Court of Spain. The initial reactions to the draft agreement in Santiago were positive. The Conference was to discuss the co-operation at its next meeting in November 2007.

22. Coopération avec le groupe des ONG « la société civile et la démocratie en Europe »

M. Ritchie informe la Commission des activités du groupe des ONG qu'il préside et rappelle que le Sommet de Varsovie a souligné le rôle important des ONG pour promouvoir la démocratie et le bon gouvernement en Europe. Le groupe d'ONG cherche en particulier à encourager une meilleure mise en œuvre, au niveau national, des conventions du Conseil de l'Europe. De plus, le groupe d'ONG a mis en place un conseil composé d'experts provenant d'ONG et dont la mission consiste à se pencher sur les législations nationales sur les associations.

23. Video surveillance by private operators in the public and private spheres and by public authorities in the private sphere

The Secretariat recalled that this study was a follow-up to and complemented the previous one on video surveillance in public places by public authorities and the protection of human rights, which the Commission had adopted at its March 2007 Plenary Session. Indeed, video surveillance had become increasingly common also in semi-public and private places. While private individuals were entitled to monitor their own premises and adjacent public places with a view to ensuring protection of their property and private life, the State had to protect the right to respect for private life of anyone entering private premises or semi-public places. The Opinion reiterated that legal regulation should apply to all situations where surveillance occurs – in public, private and semi-private space – as well as to all operators, state and private, including private operators to whom public functions are delegated. People should be notified that they are being surveyed, unless the surveillance system is obvious. A specific independent authority should be set up, as is done in several European States, in order to ensure compliance with the legal conditions under domestic law giving effect to international principles and requirements with regard to the protection of individuals and of personal data.

The issue of "consent" to video surveillance was discussed, in particular in connection with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Mr Ladenburger of the Legal Service of the European Commission, proposed certain amendments to the draft Opinion in order for it to reflect more accurately the content of this Directive and the position of the European Commission on this matter. These proposals were accepted. Mr Whitmore underlined the responsibilities which local authorities had in respect of CCTV, notably in shopping centres. Ms Palma drew the Commission's attention to the risks of too positive an attitude towards CCTV.

The Commission adopted the Opinion on video surveillance by private operators in the public and private spheres and by public authorities in the private sphere and human rights protection (CDL-AD(2007)027), subject to the amendments discussed, and forwarded it to the Parliamentary Assembly of the Council of Europe.

24. Media coverage of election campaigns

The Commission examined the draft report on media coverage of election campaigns ([CDL\(2007\)048](#)) drawn up on the basis of comments by Ms Thorgeirsdottir and Mr Masters, with a view to its adoption.

The Secretariat informed the Commission that the rapporteurs' comments had been presented during the meeting of the Group of Specialists on Human Rights in the Information Society on 26- 27 March 2007 in Strasbourg.

In the rapporteurs' opinion, two major sets of principles should be strongly reaffirmed in the recommendation. The first group was related to the freedom of expression as a fundamental right in general and the second group was linked to particular rights and the role of media during election campaigns.

The report of Ms Thorgeirsdottir and Mr Masters focused on such issues as the right of voters to be informed on the political alternatives in order to make an informed choice, the freedom of the media to spread information and inform the public without interference by government, business, or commercial interests; protection of journalists from undue pressure and the right to reply. The rapporteurs expressed their hope that their remarks and suggestions would be useful for the Group of Specialists on Human Rights in the Information Society.

The Commission adopted the report on media coverage of election campaigns (CDL(2007)048) and asked the Secretariat to forward it to the Group of Specialists on Human Rights in the Information Society.

25. Report of the Meeting of the Sub Commission on Democratic institutions (31 May 2007)

Mr Tuori said that the Sub Commission appreciated the substantive and extensive work carried out by the working group in relation to the report on democratic oversight of security services. Subject to certain amendments, the sub commission considered that the report was ready for adoption.

Mr Cameron presented the report on behalf of the working group. He recalled that the Commission had already dealt with this matter and developed abstract principles concerning the constitutional relations between internal security services and other organs of the State ("Internal Security Services in Europe", CDL-INF(1998)006). The report under consideration aimed at identifying best practices in this field. It did not contain an exhaustive survey on existing legal norms, in particular given that in this area laws on paper are very different from laws in practice. The report is based on previous surveys, notably that of the Secretary General in the context of his Article 52 inquiry and that of the Group of Specialists on Internal Security Services (PC-S-SEC), and on information received from Commission members. The report looked at the security *function*, not at specific security *agencies*.

The report explored, in the first place, the reasons for improved democratic control, in particular the need to protect people from data collection and the need to prevent secret services from developing a "state within the state" mentality. The secrecy, which naturally surrounded the work of the agencies, made it difficult to control them and the press and the public could not exercise their scrutiny.

The report further analysed the concept and forms of accountability. Security Services worked on speculative data and produced risk assessments: any form of oversight needed to be able to produce informed second assessments, and therefore needed expert knowledge.

International co-operation, which had become increasingly necessary in order to fight terrorism and organised crime effectively, had added to the difficulty of controlling the work of the agencies. In this field, it was important for parliaments to create a legal framework. Exchanges amongst different national parliamentary committees appeared appropriate.

The necessary precondition for effective external accountability was the existence of internal controls and the commitment to democratic values. External accountability could take four main different forms.

The report analysed in detail, in the first place, accountability towards parliament. Mr Leigh, member of the working group, underlined that the role of parliament consisted of setting the framework for the operation of the security services, giving them sufficient powers and scope of action, but ensuring protection for the individual rights of their "victims" and transparency of their work. In addition, parliament had to review the actions and policies of the security services after the events. No single model was advocated as being preferable; it was always necessary that any parliamentary body of the kind be bipartisan, so that it would instill public confidence, and possess adequate expertise. The powers of a parliamentary oversight body needed to match its tasks; if it was to supervise the operations and not only the policies of the security services, it needed to be given investigative powers of its own.

As concerned judicial review, Mr Cameron explained that, despite the variety of models which existed, a common feature needed to be the specialisation on the part of the judges.

Insofar as expert bodies were concerned, they could supplement parliamentary bodies or judicial bodies. As they were not directly accountable to the people, their legitimacy had to be ensured through appropriate links with parliament.

Finally, complaints bodies could also contribute to democratic accountability. They needed to be separate from authorisation bodies.

Mr Matscher, member of the working group, recalled that this study was requested by the Committee of Ministers and considered that it contained replies to most issues that arose from the control of security services.

Several members expressed their appreciation for the report.

The Commission adopted the report on the democratic control of security services (CDL-AD(2007)016) and forwarded it to the Committee of Ministers.

Mr Tuori also reported on a paper on the role and legal protection of the opposition, which was prepared by Mr Sanchez Navarro following the discussions that had taken place at the previous Plenary Session in connection with the Ukrainian draft Law on the opposition. The sub Commission took note of these comments and had left open the possibility to revert to this issue in the future.

26. Rapport de la réunion du Conseil des élections démocratiques (16 décembre 2006)

M. van den Brande informe la Commission des résultats et conclusions de la 20^e réunion du Conseil des élections démocratiques (17 mars 2007).

Lors de cette réunion, le Conseil des élections démocratiques :

- a été informé de la tenue de la 4^e conférence européenne des administrations électorales à Strasbourg les 20-21 septembre 2007. Cet événement sera consacré aux questions de la lutte contre la fraude électorale et du contentieux électoral ;
- a eu un échange de vues sur la possibilité de rédiger un code de bonne conduite en matière de partis politiques. Il est à noter que, lors de sa dernière session (avril 2007), l'Assemblée parlementaire a adopté la résolution 1546(2007) sur la question. Le Conseil des élections démocratiques examinera cet après-midi les observations de MM. Colliard et Closa Montero à cet égard (CDL-EL(2007)012 et CDL-EL(2007)013).

Le Conseil a eu également un échange de vues sur la question du rôle de l'exécutif dans la fixation de la date des élections. Il examinera un projet de rapport sur ce thème préparé par M. Velaers à sa réunion d'octobre.

27. Report of the Joint Council on Constitutional Justice (29-30 May)

The Joint Council on Constitutional Justice held its 6th meeting on 29-30 May in this hall, gathering together liaison officers and the members of the Commission. The main topics discussed were the streamlining of the Bulletin on Constitutional Case-Law; the current preparation of three special issues of the Bulletin presenting the legislation on the courts, their leading cases and - upon special request by the Presidency of the Conference of European Constitutional Courts - on the topic of the Conference's next congress: legislative omissions.

The Secretariat presented the latest improvements of the CODICES database and held a training session on its use, which was specially geared towards newly appointed liaison officers.

An important topic discussed was that of the co-operation with regional bodies, uniting constitutional courts in Francophone countries, Southern Africa, Asia, Latin America and Arab countries. The idea behind this co-operation is to share the values of democracy, human rights and the rule of law with countries that have yet to build democratic institutions. By assisting and strengthening constitutional courts and councils, this co-operation should also influence other state powers indirectly, even if this will take time and progress will vary from one country to the next. Within these various regional bodies, the courts that wish to co-operate with the Venice Commission are usually those that want to embrace these values and will probably benefit most from such assistance.

The Joint Council also took note of the very demanding programme of past and future seminars with the constitutional courts ("CoCoSems") and the *vademecum* on constitutional justice.

The Council concluded its work with a half-day "mini-conference" on the principle of proportionality, which gave rise to an excellent discussion on the case-law of the various courts as well as on dogmatic issues such as the relationship between the principles of proportionality and reasonableness.

28. Other business

There was no discussion on this item.

29. Dates of the next session and proposals for dates of the sessions for 2008

The Commission confirmed the date of its 72nd Plenary Session: 19-20 October 2007.

Mr Buquicchio informed the Venice Commission that an exchange of views will take place with the Union of Arab Constitutional Courts during the October session.

The final session for 2007 is confirmed as follows:

73rd Plenary Session 14-15 December

Mr Buquicchio informed the Venice Commission that at the December session there will be a joint meeting of the Enlarged Bureau with the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe.

The dates of the sessions for 2008 were confirmed as follows:

74th Plenary Session 14-15 March
75th Plenary Session 13-14 June
76th Plenary Session 17-18 October
77th Plenary Session 12-13 December

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

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

ALBANIA/ALBANIE :	Mr Ledi BIANKU
ANDORRA/ANDORRE :	(Apologised/Excusé)
ARMENIA/ARMENIE :	Mr Gagouik HARUTUNYAN (Apologised/Excusé)
AUSTRIA/AUTRICHE :	M. Christoph GRABENWARTER
AZERBAIJAN/AZERBAIDJAN	Mr Lätif HUSEYNOV
BELGIUM/BELGIQUE :	Mr Jan VELAERS
BOSNIA AND HERZEGOVINA/ BOSNIE-HERZEGOVINE	M. Cazim SADIKOVIC (Apologised/Excusé)
BULGARIA/BULGARIE :	Mr Anton STANKOV (Apologised/Excusé)
CHILE	Mr José Luis CEA EGANA
CROATIA/CROATIE :	Mr Stanko NICK
CYPRUS/CHYPRE :	Mr Frixos NICOLAIDES
CZECH REPUBLIC/ REPUBLIQUE TCHEQUE :	Mr Cyril SVOBODA
DENMARK/DANEMARK :	Ms Elisk WAGNEROVA
ESTONIA/ESTONIE :	Mr Jorgen Steen SORENSEN
FINLAND/FINLANDE :	Mr Oliver KASK
FRANCE :	Mr Kaarlo TUORI
GEORGIA/GEORGIE :	M. Jean-Claude COLLIARD
GERMANY/ALLEMAGNE :	Mr John KHETSURIANI (Apologised/Excusé)
GREECE/GRECE :	Ms Angelika NUSSBERGER
HUNGARY/HONGRIE :	Ms Kalliopi KOUFA (Apologised/Excusée)
ICELAND/ISLANDE :	Mr Peter PACZOLAY
IRELAND/IRLANDE :	Mr Laszlo TROCSANY
	Mr Hjörtur TORFASON
	Ms Finola FLANAGAN (Apologised/Excusée)
	Mr James HAMILTON
	Mr Antonio LA PERGOLA (<u>Président/President</u>)
ITALY/ITALIE :	(Apologised/Excusé)
	Mr Sergio BARTOLE (Apologised/Excusé)
	Mr Guido NEPPI MODONA
REPUBLIC OF KOREA/ REPUBLIQUE DE COREE	Mr Kong-hyun LEE
KYRGYZSTAN/KYRGHYZSTAN :	Ms Cholpon BAEKOVA
LATVIA/LETTONIE :	Mr Aivars ENDZINŠ (Apologised/Excusé)
LIECHTENSTEIN :	Mr Harry GSTÖHL
LITHUANIA/LITUANIE :	Mr Egidijus JARASIUNAS
LUXEMBOURG :	Mme Lydie ERR
MALTA/MALTE :	Mr Ugo Mifsud BONNICI
MOLDOVA :	Mr Nicolae ESANU
MONACO	M. Dominique CHAGNOLLAUD
MONTENEGRO	Mr Christophe SOSSO
NETHERLANDS/PAYS-BAS :	Mr Srdjan DARMANOVIC
NORWAY/NORVEGE :	Mr Peter van DIJK (Apologised/Excusé)
POLAND/POLOGNE :	Mr Jan HELGESEN
PORTUGAL :	Ms Hanna SUCHOCKA (Apologised/Excusée)
	Mme Maria Fernanda PALMA.
ROMANIA/ROUMANIE :	Mr Lucian MIHAI
	Mr Bogdan AURESCU
RUSSIAN FEDERATION/ FEDERATION DE RUSSIE	Mr Valeriy ZORKIN (Apologised/Excusé)
SAN MARINO/SAINT-MARIN :	Mme Barbara REFFI (Apologised/Excusée)

SERBIA / SERBIE Mr Vojin DIMITRIJEVIC (Apologised/Excusé)
SLOVAKIA/SLOVAQUIE :
SLOVENIA/SLOVENIE : Mr Peter JAMBREK
SPAIN/ESPAGNE : Mr Carlos CLOSA MONTERO
(Apologised/Excusé)
SWEDEN/SUEDE : Mr Hans-Heinrich VOGEL (Apologised/Excusé)
Mr Iain CAMERON
SWITZERLAND/SUISSE : Mme Gret HALLER
"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"/
"L'EX REPUBLIQUE YOUGOSLAVE DE MACEDOINE" : Ms Mirjana LAZAROVA TRAJOVSKA
TURKEY/TURQUIE : Mr Ergun ÖZBUDUN
UKRAINE : Mr Serhiy HOLOVATY
UNITED KINGDOM/ Mr Jeffrey JOWELL (Apologised/Excusé)
ROYAUME-UNI Mr Anthony BRADLEY

* * *

COMMITTEE OF MINISTERS/COMITE DES MINISTRES

Ambassador Torbjørn FRØYSNES, Permanent Representative of Norway to the Council of Europe (Apologised/Excusé)

Ambassador Meta BOLE, Permanent Representative of Slovenia to the Council of Europe

Ambassador Piotr ŚWITALSKI, Permanent Representative of Poland to the Council of Europe

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE/ASSEMBLEE PARLEMENTAIRE DU CONSEIL DE L'EUROPE

Mr Erik JURGENS, Member of the Committee on Legal Affairs and Human Rights (Apologised/Excusé)

M. Joao Bosco MOTA AMARAL, (Apologised/Excusé)

Mrs Herta DÄUBLER-GMELIN, Vice Chair of the Committee on Legal Affairs and Human Rights (Apologised/Excusée)

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF THE COUNCIL OF EUROPE/CONGRES DES POUVOIRS LOCAUX ET REGIONAUX DU CONSEIL DE L'EUROPE :

Mr Ian MICALLEF, President of the Chamber of Local Authorities (Apologised/Excusé)

Mr Keith WHITMORE, President of the Institutional Committee

COUNCIL OF EUROPE DEVELOPMENT BANK/BANQUE DE DEVELOPPEMENT DU CONSEIL DE L'EUROPE

M. Raphaël ALOMAR, Gouverneur de la Banque (Apologised/Excusé)

M. Nunzio GUGLIELMINO, Vice-Gouverneur de la Banque

EUROPEAN COMMUNITY/COMMUNAUTE EUROPEENNE

Mr. Clemens LADENBURGER, Service Juridique, Commission européenne

Mr Alessandro LIAMINE, Political and Economic Section, Delegation of the European Commission to the Republic of Kazakhstan, the Kyrgyz Republic and the Republic of Tajikistan

* * *

OBSERVERS/OBSERVATEURS

UNITED STATES OF AMERICA/ ETATS UNIS D'AMERIQUE

Mr Jed RUBENFELD, Deputy Dean and Robert Slaughter Professor of Law, Yale Law School (Apologised/Excusé)

* * *

INVITED GUESTS/INVITES D'HONNEUR**ALGERIA/ALGERIE**

M. Boualam BESSAÏH, Président, Conseil constitutionnel de la République d'Algérie
(Apologised/Excusé)

M. Moussa LARABA, Membre du Conseil constitutionnel

M. Farid BENZID, Chef d'études, Conseil constitutionnel

AZERBAIJAN/AZERBAÏDJAN

Mr Farhad ABDOULLAYEV, President, Constitutional Court of Azerbaijan

CONFERENCE OF CONSTITUTIONAL COURTS OF LATIN AMERICA SPAIN AND PORTUGAL/ CONFERENCE DES COURS CONSTITUTIONNELLES D'AMERIQUE LATINE, L'ESPAGNE ET LE PORTUGAL

Mr Léon de la TORRE KRAIS, Assesseur Cabinet de la Présidence, Tribunal constitutionnel de l'Espagne (Apologised/Excusé)

FINLAND/FINLANDE

Mr Pekka HALLBERG, President, Supreme Administrative Court of Finland

INTERNATIONAL ASSOCIATION OF CONSTITUTIONAL LAW/ASSOCIATION INTERNATIONALE DE DROIT CONSTITUTIONNEL

Ms Cheryl SAUNDERS, President, International Association of Constitutional Law
(Apologised/Excusée)

KAZAKHSTAN/KAZAKHSTAN

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(Apologised/Excusé)

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