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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

THE VENICE COMMISSION IN 2002

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ANNUAL REPORT OF ACTIVITIES

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Statement by Mr Antonio La Pergola, President of the Venice Commission to the Committee of Ministers of the Council of Europe (30 April 2003)

Mr Chairman, Ambassadors, Ladies and Gentlemen,

I.

It is my privilege to address you once a year on the activities of our Commission. Each time I do so I find that your Committee has grown in size. It is a fact that speaks for itself. Year after year the Council of Europe is getting closer to the final completion of the Founding Fathers' far reaching design. They had conceived it as a potentially pan-European institution, one that would naturally develop on a continental scale if and when our peoples and governments succeeded in doing away with ideological divisions. This year I see a representative of Serbia and Montenegro among you. I greet him with particular pleasure since our Commission has helped facilitate his countrys accession to the Council of Europe.

Let me turn to our Commission. It has of course had a parallel growth. All member states of the Council of Europe now acquire automatically membership in our own body. And besides, last year you provided in our Statute for the possible accession to the Commission of States not members of the Council of Europe. I welcome these open and flexible rules concerning our membership. I have always held that the Venice Commission should be enabled to enrich its mission by promoting and spreading the values of the Council of Europe among non-European lawyers willing and ready to espouse them. This orientation was endorsed by the Committee of Wise Persons and has been formally recognised in our Statute. However, to be successful here we should not treat third-countries simply as one more area of our interests. What we mean, indeed, is to offer them the chance and benefit of a true and proper partnership. This is the point of granting them the opportunity to be full members in our Commission.

Truth to tell we cannot expect a huge number of non-European countries to join us, and we do not. Accession is a selective process. It must be found to answer an actual need for a co-operation that is beneficial both to our Commission and to the third-country concerned. I see no risk of frivolous applications: the values of the Council of Europe are exacting, and the requirement to pay a contribution to our budget implies that only states seriously committed to co-operation are likely to seek admission.

There are, however, quite a few countries we would regard as natural partners, especially those already enjoying observer status within the Commission. From the contacts we are having with most of them with a view to their accession we are led to believe that full membership may be asked by Canada and the Republic of Korea and, at a later stage, by Japan and Mexico. Israel's application is already pending before you and we have just received the request for membership from Kyrgyzstan. We understand that it is politically sensitive. It is up to you to assess an applicant's case on political grounds. Reasons of this kind may bear also on the point in time when its admission is held appropriate. Such decisions rest at any rate with the Committee of Ministers. The Commission can, for its part, see to it, as it has always been the case, that once admitted new members engage like the other ones in upholding the values all of us stand for.

I should add that contacts with other non-European countries which are at present observers are less advanced and need improvement. Suffice it to point out an example. No one seriously interested in constitutional law can ignore the great experience of the United States in this field. Now, if we look at the present international situation, a dialogue on how democracy through law is understood and practised on both sides of the Atlantic seems to have become a pressing concern. We feel we should not shrink from such an engagement, and we are holding a seminar in Germany next month which will be devoted to a comparative appraisal of European and American constitutionalism. Here is an apt occasion of cultural debate, I should think, to pave the way for further participation of judges and scholars from the United States in our initiatives.

Finally, no report on possible accessions would by any account be complete without recalling the wise provision of our revised Statute, according to which the European Community may become a member of our Commission. We are hoping it will. We have been working very closely with the EU on a variety of issues, especially with respect to the Former Yugoslav Republic of Macedonia and Serbia and Montenegro, and the EU has provided us with substantial financial support for a number of activities. Its accession suggests itself, after all this, as an appropriate and highly desirable follow-through, whose importance to the future activity of the Commission can hardly escape attention. More at large, it would also mean one more step towards stronger involvement of the EU, with its expanding membership in Council of Europe bodies.

II.

Mr Chairman,

I come now to our activity. You can find its full description in our annual report, and I need not indulge in details. My remarks here are confined to salient trends.

As regards constitution drafting, the pioneer period of the early nineties, when entirely new constitutions were being adopted in Central and Eastern Europe, is over. This has not however ushered in a period of, let us say, fool-proof stability which would leave in these member states only room for technical amendments to the basic text already in place. There are still a good many events of constitutional significance in which the Venice Commission is interested and directly involved. Both Serbia and Montenegro have to harmonise their constitutions with the Constitutional Charter and, at least in the case of Serbia, the outcome is certain to be a largely new constitution. We are ready to follow up with any assistance in this subsequent process our previous involvement in the drafting of the Constitutional Charter and the Human Rights Charter.

In Armenia the Venice Commission was involved in 2001 in the preparation of a revised Constitution. We were concerned there, as was the Committee of Ministers, by the protracted efforts and the long wait that were needed before this text could be finalised. A referendum will be held next month on a draft revised constitution. This draft is based on our joint work with the Armenian authorities in 2001, although there are some significant differences.

In Georgia proposals for a revision of the Constitution made by President Shevardnadze are still on the table and we expect things to move forward next year.

In Ukraine President Kuchma has made a proposal for a revision of the Constitution and we will give an opinion on this proposal at the request of the Parliamentary Assembly. As in Georgia, the crucial issue is the distribution of powers between President, Government and Parliament.

In Moldova, the Venice Commission will participate in the process of revising the Constitution. The context here is quite different. The purpose of this attempt to draft a new constitution is to achieve at long last a settlement of the conflict in Transnistria. This, to be sure, is no easy task, but the effort is inevitable if we are to remove the stumbling block on Moldovas progress towards stability which is crucial to the European context. The Moldovan chairmanship of the Committee of Ministers could perhaps provide fresh impetus for a breakthrough on this issue. Here again, if assistance were required on our side, we would not hesitate to deliver it. We know we can. Allow me to recall, in this connection, the precedents of our involvement in how conflicts may be composed by legal means are certainly encouraging. In 2001 we contributed to the settlement of the conflict in the Former Yugoslav Republic of Macedonia, in 2002 to the agreement on the Constitutional Charter between Serbia and Montenegro both times by providing technical assistance to the EU. A similarly positive result may be expected in Moldova if the OSCE takes the lead. And in the wake of such achievements other ethno-political conflicts in the Council of Europe's member states might lend themselves to solution, for example the Abkhaz conflict in Georgia.

III.

Mr Chairman,
In most cases our Commission acts at the request of the country concerned or, not infrequently, in conflict situations, at the request of international bodies such as the EU or OSCE. However, the Council of Europe organs, the Secretary General and the Congress of Local and Regional Authorities can also seize us. We are gratified to see that the Committee of Ministers follows attentively our opinions and takes them into account, for example in the framework of the Ago Group, even when it does not ask for our assistance.

As to the Parliamentary Assembly, it does avail itself of our services. It will often ask our opinion on the legal aspects of a situation in order to prepare its own decisions of a political nature. Such requests are apt to concern very delicate situations and in certain cases our opinions may not be welcome to the governments concerned. The fact is, however, that we try to give to the specific issues of each situation their proper weight and always allow interested authorities to present their views. In the end we will have to provide an opinion in full independence, after careful consideration of the issues involved from a legal point of view on the basis of the values of our Organisation. Our cooperation with the Parliamentary Assembly stems from its constant appreciation of our working methods and I am pleased to note that it is steadily gaining in importance. The President of the Assembly himself is now a regular guest at our sessions.

IV.

A further activity of increasing significance is electoral law. Together with the Parliamentary Assembly and the Congress, we have set up the Council for Democratic Elections as a tripartite body. The tripartite character is particularly valuable since it makes it possible to combine the more legally oriented approach of our Commission with the practical and political experience of the members of the Assembly and the Congress. As its first main task this Council prepared a Code of Good Practice in Electoral Matters. This Code was formally adopted by our Commission and by the Assembly and will be submitted for approval to the Congress at its next session. The Code of Good Practice is not a binding document under international law. It will be up to you in the Committee of Ministers to decide whether you wish to use this text as a basis for working out an international treaty as recommended by the Assembly.

But already now the Code of Good Practice is important. It provides guidance on European standards for all interested states, especially the new democracies, and it is a clear reference framework for our Commission's activity of legislative assistance in the electoral field. Due to the activity of the Ago Group you are familiar with the process of reform of the electoral legislation in Armenia and Azerbaijan and fully aware that this is still a difficult and delicate subject in both states and elsewhere. That is why we have felt the need for a clear set of rules. So have our partners within ODIHR who are about to prepare an OSCE text of principles for elections which will be inspired by our Code of Good Practice.

While training is not a traditional calling of the Venice Commission, as from 2001 we have successfully been carrying out training courses for civil servants from South Eastern Europe, thanks to generous contributions from Italy. These courses are being extended to civil servants from Ukraine and Belarus. This experience should now also bear fruit in the field of elections. Recent events in some states, as well as the reports of Assembly and OSCE election observers, have shown that in some member states elections are still organised in what we may call a less than perfect manner. In addition to assistance with the drafting of a clear and fair Electoral Code, training election officials is the contribution we can make in this respect. Therefore we are launching a training programme for election officials, starting with the countries in the Caucasus region. I will not hide from you that training is relatively expensive. This new activity will entail a substantial drain on our budgetary resources.

Mr Chairman,

Here is my conclusion. Our revised Statute has clearly proved its worth. It has maintained the flexible method of our Commission which is the key to its success. Europe is changing and in keeping with the times we must, each and all of us, adapt to fresh responsibilities. Last year we kept pace with the changes in the European landscape and, with your support, we will continue to do so in the future. We shall be doing our best to contribute, within our remit as an expert body, to the success of our Organisation. We are proud to be one of its filiations. We share with you the deeply rooted conviction that, while it is the oldest European institution, its values and energising principles will never lose the vigour of verdant youth.

Thank you very much, Mr Chairman.

I. THE COMMISSION IN 2002

THE NEW STATUTE OF THE COMMISSION[1]

On 21 February 2002 the Committee of Ministers of the Council of Europe adopted its Resolution (2002) 3 adopting the revised Statute of the European Commission for Democracy through Law. The most significant changes with respect to the initial Statute of the Commission are the following:

- The Commission is now an Enlarged and no longer a Partial Agreement of the Council of Europe. This means that non-member States of the Council of Europe can become full members of the Commission upon invitation by the Committee of Ministers of the Council of Europe while all member States of the Council of Europe[2] are automatically members of the Venice Commission. Previously a member state of the Council of Europe was free to join or not to join the Venice Commission. However with the accession of the Russian Federation on 1 January 2002 all member states of the Council of Europe have taken this step, there was no reason to maintain the previous status of the Venice Commission as a Partial Agreement.

- Since non-member states of the Council of Europe can now become full members, it is no longer possible for states to join the Venice Commission as associate members[3] or observers[4]. The previously granted status as associate member or observer however is maintained.

- The quality of the members of the Commission as independent experts appointed by the governments, but not representing governments is underlined and additional safeguards for the independence of the members are introduced into the Statute.

- As before, the Commission provides its opinions at the request of states, international organisations and the main Council of Europe bodies. Among such bodies the Congress of Local and Regional Authorities of Europe recently received the right to make requests to the Commission.

- The previous Sub-Commission on Constitutional Justice was transformed into the Joint Council on Constitutional Justice, which includes representatives from constitutional courts[5].

- The Commission may encourage the setting up of similar bodies in other regions of the world and establish links with such bodies.

REVISED RULES OF PROCEDURE

Following the adoption of the new Statute by the Committee of Ministers, the Commission adopted, at its 50th Session on 8-9 March 2002, revised Rules of Procedure. These Rules were amended at the 53rd Session on 13-14 December 2002.

THE COUNCIL ON DEMOCRATIC ELECTIONS

In 2002 the Commission set up, together with the Parliamentary Assembly and the Congress of Local and Regional Authorities, a new, tripartite body: the Council on Democratic Elections[6].

MEMBERSHIP AND STRUCTURE

The Russian Federation and Bosnia and Herzegovina joined the Commission in 2002. The full list of members, associate members and observers by order of seniority is set out in Appendix I to this report. The offices and the composition of the sub-commissions are set out in Appendix II.

II. COUNTRY SPECIFIC ACTIVITIES

2. ALBANIA

In 2002, the Commission was informed of a dispute concerning two decisions taken by the Constitutional Court of Albania. In the first general decision, the Court held that the dismissal of public officials had to follow a fair procedure that would give the persons concerned a right to reply to allegations made against them. In the second individual decision, the Court found that the dismissal of the Prosecutor General had been unfair (violation of the right to be informed of the accusation, the right to be given adequate time for preparation of the defence, the right to appear in court). The Constitutional Court considered that, despite the absence in the Constitution of a provision giving it the power to review the procedure of removal from office, it had a general competence over allegations of breaches of the right to a fair trial.

As a result of these decisions by the Court, the President of Parliament resigned, protesting that they were unconstitutional. The Constitutional Court was heavily attacked in the press and by politicians. Moreover, the Parliament only implemented the general decision and did not act upon the individual decision concerning the General Prosecutor.

At its 51st Plenary Session, in July, the Commission invited its President to express, towards the Albanian authorities, the concerns of the Venice Commission in relation to the non-implementation of the decision of the Constitutional Court of Albania concerning the General Prosecutor, with a view to reiterating the importance, in a country governed by the rule of law, of implementing the decisions of the Constitutional Court.

The Albanian failure to implement this decision was further discussed at a conference organised in November by the Venice Commission and the Albanian

Constitutional Court to mark the 10th anniversary of the Constitutional Court of Albania.

At the 53rd Plenary Session in December Mr Omari informed the Commission on the two main problems that dominate Albanian politics: the revision of the electoral code, and the implementation of the 1991 Law on the restitution of the nationalised property.

With regard to the electoral code, a parliamentary commission, composed of the opposition and the majority parties representatives, and assisted by the representatives of the OSCE, the ODIHR and the Venice Commission was created. A very intense debate is going on with regard to the issue of the possible amendments to the Constitutional provisions that established the present electoral system, but up to now little progress has been achieved.

On the other hand, two proposals on the reform of the property regime were discussed, but no compromise has been found.

In addition a Conference on Constitutional Court, the upholder of the observants of the Constitution was held in Tirana on 25 November 2002 on the occasion of the 10th anniversary of the Albanian Constitutional Court.

2. ARMENIA[7]

Legal reforms to be undertaken before the adoption of the revised Constitution

The text of a revised Constitution had already been prepared by a group of experts in co-operation with the Venice Commission in 2001[8]. For it to be adopted, the text of the revised Constitution has to be approved at a referendum with a minimum turnout of 50% of the registered voters. In a country, where a large part of the citizens for economic reasons are living abroad for long periods, a high turnout is difficult to achieve and therefore no referendum has yet been scheduled. The Ago Group, which deals within the Committee of Ministers of the Council of Europe with the monitoring of the commitments entered into by Armenia and Azerbaijan, therefore suggested that the Venice Commission should examine, with the Armenian authorities, pragmatic ways of introducing legal reforms before the new Constitution enters into force. A meeting on this topic took place in Strasbourg in July 2002.

The participants in the meeting came to the joint conclusion that most of the reforms could already be carried out under the present Constitution. The exception is constitutional justice where the envisaged reforms need a constitutional basis. The Commission will also have to remain particularly vigilant with respect to the abolition of the death penalty, which was confronted with political resistance in Armenia. In order to avoid undue delay in setting up an Ombudsman institution under the new Constitution, the working group suggested, as an interim measure, the appointment of an Ombudsman by the President, in consultation with the political forces represented in parliament. The reforms in the areas of local government, the judiciary and the media could and should be addressed in co-operation with the Council of Europe before the new Constitution enters into force, leaving some issues to be reviewed after its entry.

In December, the Commission was informed that the referendum on the revised Constitution should take place in May 2003 together with the parliamentary elections.

Amendments to the Electoral Law of Armenia

Electoral law is a key aspect of the co-operation between the Commission and Armenia. At its 50th session, in March, the Commission examined opinions drawn up by Messrs Owen and Mackie on draft amendments to the Electoral Law of Armenia. Their main conclusions can be resumed as follows:

a) the scope of the amendments was limited;
b) the composition of the electoral commissions was modified: most members would be nominated by the Government; this point should be reconsidered;
c) the appeal procedure was very complex and somewhat unclear;
d) application of clauses on fraud was not very clear;
e) the provisions on the participation of observers could be made more precise;
f) the creation of an independent commission in charge of the delimitations of constituencies would be appropriate.
g) the verification of a sample of signatures should not lead to the elimination of a candidate who obtained a sufficient number of signatures.
h) The provision limiting freedom of expression should not be interpreted in a restrictive way.

The Commission instructed the Secretariat to prepare a consolidated opinion on the basis of the opinions of the two experts. This opinion was then forwarded to the Armenian authorities.

The National Assembly of the Republic of Armenia adopted the draft amendments to the Electoral Code in its first reading, in early May. Furthermore, the Venice Commission participated in a Round Table on the revision of electoral legislation in Armenia, organised jointly by the OSCE, NDI (National Democratic Institute) and the Council of Europe on 16 and 17 May.

Experts from the Venice Commission and ODIHR (Messrs. Owen and Middleton) subsequently drew up a joint opinion (it was the first time this had occurred) on the amendments adopted in the first reading by the Armenian Parliament. The second opinion asserted that, for the most part, the draft amendments made relatively minor and technical changes to the existing Code while previously identified concerns were not addressed adequately or, in most cases, not at all. As an example, the key issue of the formation of the Central Electoral Commission (CEC) was still not resolved. Moreover, a number of previously suggested amendments, which would have enhanced election transparency, promoted equality among candidates and helped to ensure the security of the ballot, were not adopted. A final conclusion suggested that improvements to the Code must be accompanied by substantial efforts to enhance the independence and authority of the judiciary.

To begin with, the joint assessment establishes that a number of the amendments may give rise to difficulties in practice: the fact that parties and candidates only have 15 days after the election (as opposed to 30 in the current Code) in which to submit their campaign accounts, suggests that the provision must be carefully monitored to ensure that greater haste does not impinge on the accuracy of the accounts. The procedure to verify voters credentials at the polling station has been revised, but remains excessively cumbersome. Finally, the amendments imply that precinct commissions would no longer be required to reconcile the number of ballot papers received with the number accounted for at the end of the count. This creates a clear potential for manipulation.

In addition to the adopted amendments that may be difficult to apply, the assessment also underlines that a number of previously suggested amendments, which would have enhanced election transparency, promoted equality among candidates and helped to ensure the security of the ballot, have not been adopted. These include:

- the safeguards to ensure that the registration of a candidate or party list cannot be revoked except for serious breaches of the Code according to well-defined criteria;

- mechanisms to reduce the number of voters unable to vote for purely practical reasons, given the absence of early, proxy, mobile and other forms of special voting;

- a requirement that superior election commissions prepare and issue copies of a summary table, showing a full breakdown of results from the next

inferior level of election commission;

- clear procedures and criteria for verifying signatures in support of candidates;

- the appeals system, lastly, has been only partially improved and is still complex and difficult to understand.

The final conclusion offered in the assessment is that, regardless of the amendments adopted, the key to improving the quality of elections remains the fair implementation of the Code.

The Venice Commission endorsed the assessment of the amendments to the electoral code of the Republic of Armenia at its 52nd plenary session, in October.

Law on Political Parties

At its July session, the Commission took note of the opinions prepared by Messrs Vogel and Tuori on the draft Law on Political Parties. These opinions establish that some provisions were still not entirely satisfactory in the draft. This concerns in particular the relationship between the draft law and the law on associations, registration requirements, the prohibition for non-citizens to become party members and the possibility for the parties to submit consolidated accounts. A further issue is the forced dissolution of political parties which have not taken part in two subsequent elections or have not obtained at least two per cent of the vote. These opinions were forwarded to the Armenian authorities before the Armenian Parliament adopted the law on political parties, in July.

In addition a seminar on International experience and perspectives of human rights protection before the Constitutional Court was held in Yerevan on 4-5 October 2002.

3. AZERBAIJAN[9]

Referendum on Constitutional Amendments

At its 51st and 52nd sessions in July and October, the Commission, was informed about the constitutional referendum held on 24 August. The amendments to the Constitution proposed by the President of Azerbaijan were approved by a large majority. The Venice Commission had not previously been consulted on this text. However the amendments enabling individuals, courts and the Ombudsman to bring cases to the Constitutional Court are based on recommendations of the Venice Commission. Other amendments abolish the proportional part of the electoral system and provide that the Prime Minister, and no longer the Speaker, replaces the President in case of incapacity of the latter to exercise his or her functions. Further amendments reflect the need to implement the commitments to the Council of Europe.

Law on the Constitutional Court of Azerbaijan

In 2001, the Commission had adopted an interim opinion on the draft Law on the Constitutional Court of Azerbaijan that pointed out a number of unclear provisions in the text. Following these comments, a revised draft Law on the Constitutional Court was prepared. During its 50th Plenary Session, in March, the Commission adopted an opinion on this revised draft law.

This opinion, drawn up on the basis of comments by Messrs Endzins, Hamilton, Nolte and Paczolay, seeks to determine whether the provisions of the draft law are in conformity with the Constitution, and whether their adoption is advisable in the light of common European standards and practices. The rapporteurs first note that the new draft law has been considerably shortened, leaving many details to the rules of procedure to be adopted by the Court as suggested by the Commission in its interim opinion. The advisability of giving extensive powers to the President of the Court in assigning cases to judges is also questioned, in view of the principle *primus inter pares* that is applied in similar judicial bodies in most European countries.

One major issue pointed out is the necessity to provide for a clear procedure for the newly introduced individual complaint. The draft provides for constitutional complaints only against individual acts which are allegedly based on unconstitutional, general, normative acts but it does not allow complaints against individual acts in which the violation of the fundamental rights of the individual stems from the unconstitutional application of a constitutional normative act. The task to deal with such cases is left to the ordinary courts. Consequently, the effects of a decision of the Constitutional Court declaring a normative act unconstitutional have to be set out clearly. In order to offer an effective remedy, provision has to be made for an obligatory review of the individual act by the ordinary courts on the basis of the decision of the Constitutional Court, i.e. on the basis of the abrogation of the normative act.

The second major issue pointed out in the opinion is the possibility for ordinary courts in human rights related cases to request interpretations only. As a consequence, the Constitutional Court could come to the conclusion that an applicable Law is unconstitutional. Lacking a specific request to do so, the Constitutional Court would be unable to abrogate this Law in a mere interpretation procedure. This could erode the status of the Court as manifestly unconstitutional laws would remain in force.

Partially overlapping with corresponding provisions in the Constitutional Law on the Exercise of Human Rights and Freedoms, the constitutional amendments later approved by referendum provide a constitutional basis for these procedures.

Draft revised electoral code of Azerbaijan

At its 52nd plenary session, the Commission endorsed a joint assessment with ODIHR on the draft revision of the electoral code of the Republic of Azerbaijan, drawn up on the basis of comments from Messrs Nolte, Polizzi and experts of ODIHR. This assessment is a further example of the co-operation between the Venice Commission and ODIHR in electoral matters (a similar co-operation exists as regards Armenia). The main points raised in the observations concern freedom of expression, sanctions in cases of violation of the electoral law, impartiality of electoral commissions, observation of elections and procedures of appeal.

Following this opinion, the draft electoral code was revised. The Commission accordingly produced and approved a revised joint opinion on the revised draft Electoral Code of the Republic of Azerbaijan at the following session in December. This revised opinion first points out that a significant number of the recommendations made in the first opinion are now reflected in the new draft. The main points raised in the observations concern the need to simplify the system, the membership and duties of Election Commissions, official records and results, national and international election observers, and complaints lodged by candidates or voters with the courts or the Election Commissions. Further improvements are also needed regarding voter lists, registration of candidates and the proportionality of sanctions (particularly regarding registration of candidates).

On 16 and 17 December Messrs. Nolte and Polizzi attended a public round-table in Baku on the Draft Election Code of Azerbaijan (co-organised by the OSCE and the Council of Europe) with political party representatives, administrative officials and other participants. As a result of this round table, the following comments

were made on the topics of transparency, registration of voters and candidates and election commissions:

- regarding transparency, the experts pointed out that the electoral law, being at the same time special legislation and later legislation, takes precedence over other legislation that may contain conflicting rules. The experts also raised the issue of publication of election results, in particular the proper circulation of election protocols, expressly requesting that the protocols be generously distributed to election observers without payment. Lastly, some participants mentioned that the draft is not very clear on who could become an observer and that it could therefore be interpreted restrictively, as well as the fact that election observation should not be limited to Election Day.

- concerning the registration of voters, the establishment of a permanent voter list was described as a welcome enhancement of the draft code. The experts also established that provisions ensuring the right of stateless and foreign voters to vote under the conditions of the draft code, although controversial, do not run counter to international standards. A final conclusion on the registration of voters suggested that the active and passive voting rights of IDPs should be implemented for all types of elections. On the registration of candidates, the experts agreed that the focus should be on whether the candidate has collected sufficient valid signatures, with no need for an upper limit to the number of signatures collected.

- finally, on the topic of the composition of the election commissions, the experts suggested that the chosen solution should be acceptable to all political forces.

Co-operation on the draft Electoral Code of Azerbaijan will continue in 2003.

In addition the following Seminars were held in Baku during 2002:

The legal frameworks to facilitate the settlement of ethno-political conflicts in Europe in co-operation with the Constitutional Court of Azerbaijan, on 11-12 January

The protection of fundamental rights by the Constitutional Court by means of individual complaint was held in Baku on 8-9 November 2002.

4. BELGIUM[10]

In 2002, the work of the Commission with respect to Belgium aimed at defining, at the request of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly, the possible groups to which the Framework Convention on National Minorities could be applied in that country. In the autumn of 2001, a Working Group, composed of Messrs. Matscher, Malinverni, Van Dijk and Bartole was set up to study the question. At its 50th Plenary Session, in March, the Commission adopted the resulting opinion on possible groups to which the Framework Convention on National Minorities could be applied in Belgium before transmitting it to the Parliamentary Assembly of the Council of Europe.

The starting point of the opinion is to try and establish a methodology for identifying a national minority, as the absence of a definition of *national minority* in the Framework Convention entitles States parties to determine the scope of application *ratione personae* within their territory, provided that no arbitrary distinctions are made. A teleological approach to the Framework Convention first suggests that it is designed to afford protection to those minority groups that are at risk of losing their identity by operation of the majority rule. It follows that in States like Belgium, made up of groups of persons which, despite their difference in number, run the State institutions on an equal footing and are afforded mechanisms whereby the majority rule is corrected or neutralised, these co-dominant groups do not need any protection.

Secondly, in decentralised States, the situation of co-dominance has to be assessed at both State and sub-State level, and particularly at the latter, given that the decentralised authorities normally take decisions affecting national minorities.

The concrete application of this methodology to the Belgian situation leads to the conclusion that Belgian French-speakers do not constitute a minority at the State level, whereas Belgian German-speakers do. On the other hand, French-speakers in the Flemish-language Region may be considered as a minority in the sense of the Framework Convention, as may Flemish and German-speakers in the French-language Region.

This opinion was forwarded to the Parliamentary Assemblys Committee; two members of the working group presented it and discussed it at the latters meeting at the beginning of September 2002, in the presence of experts appointed by the Flemish members of the Committee.

The Parliamentary Assembly subsequently adopted a resolution (1301(2002) on Protection of minorities in Belgium), based on the Venice Commissions opinion which it fully endorsed.

5. BOSNIA AND HERZEGOVINA[11]

A. Reform of the institutions

Ombudsman Institutions

Relations between the Ombudsman institutions at state and entity level

In March, the Commission received a request from the OSCE Mission to Bosnia and Herzegovina for an opinion on a number of issues related to the Ombudsman institutions existing in Bosnia and Herzegovina and the accession commitments of this country with respect to these institutions, as defined in Opinion no. 234 (2002) of the Parliamentary Assembly of the Council of Europe. At present within Bosnia and Herzegovina there is an international Ombudsman at state level, as well as two national institutions at the level of the entities.

The Commission noted that the Report of its Working Group on Ombudsman Institutions in Bosnia and Herzegovina had already dealt with some of the issues raised in a preliminary fashion. The report established that it was quite usual for Ombudsman institutions to exist at both federal and federated entity level within a federal state, in order to ensure that the function of link between the individual and the state was maintained at every level of public power. It was especially important that the institutions at the level of the entities in Bosnia and Herzegovina continued to exist and to function effectively given the current concentration of power at the level of the entities and relative lack of power at the level of the state. Bosnia and Herzegovina had also committed itself to working towards establishing multi-ethnic Ombudsmen, and this should be the first step that should be achieved before consider[ing] establishing, in the long term, a single, unified Human Rights Ombudsmans office at state level (§ 15.v.*c* of Assembly Opinion 234).

The Commission further noted that the Assembly had referred to the need for Bosnia and Herzegovina to implement the legislation to guarantee the independence of the Ombudsman institutions at state as well as entity levels, including amendments to the Federation of Bosnia and Herzegovina Law on Ombudsmen drafted by the Venice Commission. Indeed, this formed part of the accession commitments of Bosnia and Herzegovina (§ 15.v.*f* of Opinion 234). The emphasis on implementing amendments to a law on an *entity* Ombudsman institution was an indication that the Assembly itself expected these institutions to endure and that any consideration of the question of establishing a single Ombudsman institution at the level of the state should be dealt with as a long-term issue.

In view of all these elements, the Commission expressed the view that it might not be desirable to take action hastily with a view to abolishing or merging the entity Ombudsmen, at least as long as the State Ombudsman was an international and not a national, multi-ethnic institution. This was essential in view of the policy followed by the High Representative to ensure greater implication of nationals in decisions concerning their own country. The Commission asked the Secretariat to inform the relevant bodies of its position and appointed rapporteurs to pursue this issue.

The rapporteurs, Ms Serra Lopes, Messrs Bardiaux and Christopoulos, held exchanges of views in April with representatives of the two entity ombudsman institutions and in June with the State Ombudsman. They subsequently prepared an opinion on Certain matters related to the ombudsman institutions in Bosnia and Herzegovina, which was adopted by the Commission at its 51st Plenary Session, in July.

The opinion states that, prior to considering establishing a single, unified Ombudsman institution at state level, the competent authorities have to turn the existing international Ombudsman institution at state level into a multi-ethnic, national one. This implies studying the necessary constitutional and legislative amendments, the future composition of the institution and its financing. In the meantime, it is imperative that the existing institutions continue to work without any hindrance and independently, without any hierarchical relations amongst each other. Effective co-operation and co-ordination among the state and the two entity institutions is to be achieved as a necessary precondition to ensuring an appropriate level of protection of individuals in Bosnia and Herzegovina.

Status and rank of the Ombudsmen of the Federation of Bosnia and Herzegovina

At the March session, the Secretariat further informed the Commission that the Ombudsmen of the Federation of Bosnia and Herzegovina had requested an opinion on their status and rank, and subsequently the level of their salary, in the Bosnian system as well as on the legal basis for the current equation of their salaries to those of ordinary judges. An opinion was subsequently drawn up on the basis of comments by Ms Serra Lopes and Mr Vogel.

The Commission explains in particular that the status of an Ombudsman can vary from civil servant to judge (and, indeed, a comparative study undertaken by the Secretariat following this request shows that there is a variety of different solutions in the member States of the Council of Europe). It is essential, however, that the status of the Ombudsman be commensurate with his functions and contribute towards his independence, and therefore that his rank should be appropriately high and reflected in the salary level. The equation of the salaries of the Ombudsmen of the Federation of Bosnia and Herzegovina with that of ordinary judges is acceptable under European standards and has sufficient legal basis.

Amendments to the Constitution of the Republika Srpska

In October, at its 52nd session, the Commission adopted an opinion on the implementation of a decision of the Constitutional Court of Bosnia and Herzegovina by way of amendments to the Constitution of the Republika Srpska, drawn on the basis of comments by Mr Scholsem. The Constitution of the Republika Srpska, adopted in 1992, treated only the Serb people as constituent people and mentioned only the Serb language. A decision of the Constitutional Court of Bosnia and Herzegovina made a revision of this Constitution necessary, although it did not contain any overtly discriminatory provisions with respect to persons belonging to other peoples[12].

The opinion of the Venice Commission notes that the solutions adopted in Republika Srpska are in harmony with those in the Federation of Bosnia and Herzegovina. They are both based on a political agreement for the implementation of the decision of the Constitutional Court which was concluded in March between the major political actors. The amendments adopt the approach of collective political equality between the three constituent peoples. This method creates a number of problems, in particular by running the risk of a paralysis of the institutions since all three constituent peoples get wide ranging veto powers at all levels, even where they constitute only a small minority of the population. It is further noted that the Constitutional Court is burdened with tasks of a political nature. The overrepresentation of minorities can become questionable in democratic terms. All important political positions are allocated according to ethnic criteria. However, if the approach chosen is not the one favoured by the Venice Commission, the willingness to implement the decision of the Constitutional Court has to be welcomed as well as the fact that a consensual solution has been found.

B. Legislative Reforms

Rights of national minorities in Bosnia and Herzegovina

Bosnia and Herzegovina is in the process of drafting a law pertaining to the rights of national minorities in that country. A meeting of the Working Group assembled to that effect took place in Paris on the first day of March. The purpose of the meeting was twofold: to get Bosnian representatives to reach an agreement on the content of the law to be adopted on the subject and to get them to focus on one of the four drafts then circulating in Bosnia and Herzegovina and subsequently speed up the parliamentary procedure.

At its 50th plenary session, a week later, the Commission took note of the results of the meeting, which proved to be very useful. It appears that participants could find an agreement on most points, with the exception of the possibility of stretching the application of the law to cover the constituent peoples whenever they come to constitute a minority in a minority. Bosnian participants in fact strongly and unanimously opposed any such idea. Two main questions remained outstanding following the meeting, thus requiring further consideration: the mechanisms for implementing the law at the entities level and the funding of the State budget in respect of this matter.

Draft law on the State Agency for Protection and Information

The Commission also adopted an opinion on the draft law on the State Agency for Protection and Information, drawn up on the basis of comments by Messrs Scholsem and Nolte. The opinion, which was adopted at the 50th Plenary Session in March, concentrates on two main issues the competence of the State of Bosnia and Herzegovina to create such a body and the issue of separation of powers. Mr Scholsem indicated that the federal intelligence service had a low profile compared to that of the entities while Mr Nolte pointed out that the agency did not seem to be under the control of any other state power. He suggests, in his opinion, making it less independent from other State bodies.

Draft law on Civil Service in Government Institutions

The Commission further adopted, at the same March meeting, an opinion regarding the draft law on Civil Service in Government Institutions, on the basis of comments of Mr Tuori. The Commissions opinion insists that the composition of the civil service should generally reflect the ethnic composition of Bosnia and Herzegovina as the initiators of the bill had originally suggested while avoiding strict quotas for all positions. The Secretariat informed the Commission that the Office of the High Representative had taken note of the opinion and recommended that the authorities of Bosnia and Herzegovina follow its recommendations.

In addition a seminar on Effective remedies for the protection of Human Rights: the role of the Constitutional Court was held in Sarajevo on 23-24 May 2002 in co-operation with the Constitutional Court of Bosnia and Herzegovina.

7. BULGARIA[13]

At the request of the Bulgarian authorities the Commission adopted at its July plenary session an opinion on the draft Law on amendments to the judicial system act of Bulgaria drawn up on the basis of comments by Messrs Hamilton, Said Pullicino and Ms Suchocka.

In general, the Commission considered the draft as a positive step towards reform of the judiciary. Nevertheless, some issues mainly related to the independence of the judiciary, need to be addressed. The concerns relate to the need to depoliticise the elections to the Supreme Council of Justice (an issue already addressed in the Commission's opinion on a previous reform (CDL-INF (99) 5)), the challenging of the elections of members of the Council, the role of the Minister of Justice in the Council, the role of the inspectorate within the Ministry, the system of evaluation of judges, due process in disciplinary proceedings, relocation and demotion of judges as disciplinary measures, the procedure of lifting the immunity of judges, the scope of reasons for the dismissal of a judge, the recourse to appointing retired judges without the guarantees of irremovability, a system of incentives to motivate judges and the direction of the National Institute of Justice. The Judiciary should also continue to be entitled to an autonomous budget. On the other hand, the Commission does not share the concerns expressed in the Supreme Council of Justice concerning the appointment of presidents of courts for four-year periods only.

7. CROATIA[14]

At its 50th Plenary Session, the Commission adopted an opinion on the Law on election of members of the representative bodies of local and regional self-government units of Croatia.

One of the commitments entered into by Croatia upon accession to the Council of Europe obliges the country to prepare constitutional legislation on the protection of national minorities in co-operation with the Venice Commission. This co-operation failed to lead to the adoption of a text in the years 2000 and 2001[15]. At the beginning of 2002, the draft Constitutional Law on the Rights of Minorities prepared hitherto by the authorities was withdrawn due to the strong opposition of a number of political forces.

On 22 February, the Helsinki Committee on Human Rights and the Council for National Minorities organised a meeting on the status of minorities in Croatia, with the participation of the Venice Commission Secretariat. The latter was informed on that occasion that the draft law had been withdrawn and the Government would prepare a new draft shortly. Such new draft was finalised on 15 July 2002. On 17 July 2002, the Deputy Prime Minister, Mr Goran Granic requested the Venice Commission and the international community to give opinion on the new draft of the constitutional law.

In October, the Commission adopted an opinion on this latest draft law. It noted that not all concerns expressed and questions raised by the Commission in its previous consultations and opinions had been adequately addressed, especially not the issue of voting rights and voting procedures in relation to the representation of national minorities in Parliament. The government of the Republic of Croatia subsequently prepared a response to the Commissions opinion, giving an explanation to some of the observations made by the Commission in its opinion.

At its 53rd Plenary Session, the Commission was informed that on 13 December 2002, the Croatian Parliament had finally adopted the Constitutional law on the Rights of National Minorities. On this occasion the Commission endorsed Mr. Van Dijks comments on the response of the Croatian Government to the Venice Commissions opinion. The comments refer inter alia to the need to define more precisely the concept of members [of national minorities who] have been traditionally settled in the territory of the Republic of Croatia, to the protection of the confidentiality of the identification of persons belonging to national minorities during elections, and to the limited scope of the powers and rights allocated to the minority self-government.

The Commission also stressed that the clarifications, which it had requested in its previous opinion, should be provided by the Croatian Authorities, either in the Explanatory Report to the Constitutional law, or in the relevant implementing laws.

8. GEORGIA[16]

Draft revision to the Constitution of Georgia

In February the President of the Parliament of Georgia requested the Commission to examine a draft constitutional law on amendments to the Constitution of Georgia, as proposed by the President of the Republic of Georgia. These amendments aim at giving more powers to the government in particular by introducing the position of Prime Minister. The President would remain the head of the executive and he would designate the candidate for the post of Prime Minister who should be appointed by the Parliament. The intention behind the amendments, therefore, is to move from an American type of presidential system to a semi-presidential system like in France.

In March, the Commission appointed Messrs Malinverni, Bartole and Zahle as rapporteurs on the revision of the Constitution of Georgia. In their comments the rapporteurs conclude that, while the intention behind the proposals is welcome, it is not carried out in a coherent way. The powers of Parliament in many respects appear too weak and the government remains very much subordinate to the President.

At the July session the Commission was informed that the political situation in Georgia following the recent local elections made it difficult to immediately pursue co-operation on this issue, and that it would be more suitable to come back to it at a later stage. The Commission therefore took note of the comments on the proposed amendments and agreed to continue working with Georgia on this issue.

In October, the Commission was informed that the President of Georgia had established a Commission in order to deal with the territorial organisation of the country, the electoral law and the reform of the State, especially with respect to the establishment of a Council of Ministers. This Commission is expected to co-operate with the Venice Commission to that effect. At the same meeting, the Commission was further informed that the Georgian Parliament had defined the status of Abkhazia in the Georgian Constitution as being an Autonomous Republic.

Electoral Code of Georgia

The Commission also worked with Georgia with regard to the countrys draft Electoral Code. During the 50th Plenary Session, experts of the Commission, namely Messrs. Rose, Grotz and Torfason, presented opinions on the Electoral Code of Georgia. The experts underlined as very positive the fact that a specific chapter on transparency had been introduced to the Code. However, according to the same experts, a certain number of points could be reconsidered. The most important points are the following:

- The stipulations for external voting ought to be outlined explicitly and more precisely.
- Concerning the delimitation of electoral boundaries, a maximum deviation of 10% from the average ratio of voters per single-member constituency should in principle be introduced.
- The choice between an appeal to an election Commission or to a court should be abolished.
- In the proportional part of the parliamentary electoral system, the threshold of exclusion should be lowered to 4%-5% instead of 7%.
- The application of a plurality system in multi-member constituencies for local elections could produce very disproportionate results.
- Withdrawal of candidates should not be allowed.

Furthermore, in order to avoid electoral fraud, the use of mobile ballot boxes should be limited, as well as registration on the day of elections. On the contrary, the establishment of supplementary voter lists was a definite progress, especially concerning IDPs from Abkhazia. A maximal deviation from the average ratio of registered votes per single-member constituency should be defined and an independent boundary commission established. Withdrawal of candidates should not be allowed.

At the subsequent session of the Commission, in July, the Secretariat informed the Commission that the authorities of Georgia were considering a complete revision of the Electoral Code.

In addition a seminar on Constitutional control: basic problems of practice organisation and legal proceedings was held in Batumi on 3-4 June 2002.

9. KYRGYZSTAN[17]

Over the course of the year, a public debate took place in Kyrgyzstan on the subject of constitutional reform. Constitutional amendments were proposed by the President and submitted to a nation-wide public debate, a process scheduled to be completed on 2 January 2003. The proposals or comments received before this date, which accounted for about a thousand proposals by the end of 2002, would be taken into consideration by the Constitutional Assembly when finalising the draft amendments to the Constitution. Subsequently, the President would set a date for a referendum on these amendments.

At the end of November, the Venice Commission participated in a conference on the subject of Human Rights Protection Systems, organised in Bishkek upon the request of and in co-operation with the Constitutional Court of Kyrgyzstan. The seminars aim was to inform Kyrgyz legal professionals on international and national judicial means of protection of human rights. The Bishkek seminar was a timely event as it was held at the same time as the election of the first ombudsman and while the public discussions on the constitutional amendments were at their climax. When, on this occasion, the President of the Republic received the Venice Commission delegation and the Chair of the Constitutional Court of Kyrgyzstan, he requested an opinion from the Venice Commission on the proposed constitutional amendments.

The Commission consequently invited Ms Suchocka and Mr Tuori to act as rapporteurs on this issue. Mr Tuori explains in his comments that the principal aim of the amendments referred to the Commission is to confer greater powers on parliament, and that they should therefore be welcomed. Presidential power nonetheless remains very, if not to say unduly, strong. In particular, the President will continue to enjoy excessive powers regarding the dissolution of parliament and in legislative matters. Mr Tuori added that the constitutional provisions on human rights, which had not been referred to the Commission for an expert opinion, should be subjected to greater scrutiny in the light of European standards, particularly regarding the death penalty.

Mr Endzins pointed out that the provisions governing termination of the seven-year term of office of local court judges were too vague and must be given a more precise basis in law to comply with European standards in such matters.

The Commission, finally, stressed the importance in a democratic country of establishing a constitutional court, or equivalent court, enjoying full independence and appropriate powers, particularly in matters of abstract legislative review.

An opinion based on these comments was adopted by the Commission at its 53rd Plenary session, in December. In addition, the Commission expressed its willingness to perform any further study of constitutional amendments that the Kyrgyz authorities may require.

In addition a seminar on Human Rights Protection systems was held in Bishkek on 21-22 November 2002.

10. LATVIA[18]

In October, at its 52nd Plenary Session, the Commission adopted an opinion on the draft law on judicial power of Latvia, drawn up on the basis of comments by Ms Suchocka, Messrs Torfason and Lavin. The opinion comes to the conclusion that the draft represents a comprehensive effort to organise the judicial system in Latvia.

The draft law provides for the creation of a new government body, the Council of Justice, which would take over large parts of the work of the Ministry of Justice, both in the judicial and in the administrative field. Although this reform runs the risk of overburdening the Council with administrative tasks, the introduction of this body as such is recognised as a very positive feature of the draft.

On the other hand, the opinion also points out that the wide scope of powers of the Council of the Judiciary taken together with its composition mainly of judges might create a problem of democratic legitimacy of the judiciary. Another major issue raised is the method for appointment of judges which should rather be left with the Head of State than be made by Parliament. This might help to avoid political struggles in this process.

Overall, the opinion concludes that the proposed legislation constitutes a very comprehensive and detailed product being so rich in detail that its strict application may serve to obstruct the natural adjustment of the Law to the circumstances of specific cases. Consequently, the opinion suggests a review should be conducted in order to investigate whether all the detailed provisions are necessary and also to avoid repetitions to some extent.

11. LIECHTENSTEIN[19]

On 6 November 2002 the Bureau of the Parliamentary Assembly asked the Commission to examine as soon as possible the proposals for a revision of the Constitution of Liechtenstein regarding their conformity with the fundamental principles of the Council of Europe. Following this request the Commission adopted an opinion at its 53rd Plenary Session on 13-14 December 2002.

In the opinion the Commission notes that two sets of proposals for a revision of the Constitution of Liechtenstein have been put forward: one by the Princely House and one by a Citizens Initiative for Constitutional Peace. The latter proposal does not raise any concerns as to its compatibility with European standards.

With respect to the proposals made by the Princely House, the situation is different. These constitutional amendments would substantially strengthen the powers of the Prince Regnant and the Princely House. Thus, if the Government loses the confidence of the Prince Regnant, it loses the power to exercise its functions even if it still enjoys the confidence of the Diet, and the Prince Regnant may appoint an interim government. The Prince Regnant may dismiss, in agreement with the Diet, members of Government who no longer enjoy his confidence. The Prince Regnant would have the power to veto any bill by not giving his assent within six months. No constitutional amendments, with the exception of the abolition of the monarchy, could be adopted without the approval of the Prince Regnant. The Princely House would have the power to adopt and amend the Law on the Princely House which regulates succession to the throne and related matters. This law would not even be subordinate to the Constitution. Furthermore, the Prince Regnant would have the power to adopt emergency regulations by which the applicability of individual constitutional provisions may be limited.

The Commission concludes that the present Constitution of Liechtenstein, dating from 1921, already provides for a fairly strong position of the monarch,

stronger than is in practice in other European members of the Council of Europe which are monarchies. However, the experience of these monarchies shows that this is not necessarily an obstacle to the development of a constitutional monarchy fully respecting democratic principles and the rule of law. The Constitution therefore was not considered an obstacle to accession to the Council of Europe in 1978.

By contrast, in the Commissions opinion, the present proposal from the Princely House would present a decisive shift with respect to the present Constitution. It would not only prevent the further development of constitutional practice in Liechtenstein towards a fully-fledged constitutional monarchy as in other European countries, but even constitute a serious step backwards. Its basic logic is not based on a monarch representing the state or nation and thereby being removed from political affiliations or controversies but on a monarch exercising personal discretionary power. This applies in particular to the powers exercised by the Prince Regnant in the legislative and executive field without any democratic control or judicial review. Such a step backwards could lead to an isolation of Liechtenstein within the European community of states and make its membership of the Council of Europe problematic. Even if there is no generally accepted standard of democracy, not even in Europe, both the Council of Europe and the European Union do not allow the *acquis européen* to be diminished.

A referendum on the two sets of proposals for constitutional amendments is scheduled for 14 and 16 March 2003. The Commissions opinion was submitted to the Parliamentary Assembly and the Assembly will decide on the follow-up to be given to it following the referendum.

12. LUXEMBOURG[20]

In March, the Prime Minister of Luxembourg asked the Venice Commission to examine three draft laws, namely: the draft law on the protection of persons in respect of personal data processing, the draft law on freedom of expression in the media and the draft law on the establishment of an Ombudsman. The Commission consequently set up working groups to review these draft laws.

Draft Law on the Protection of Persons in Respect of Personal Data Processing

The working group reviewing the draft law on the protection of persons in respect of the processing of personal data was composed of Messrs Vogel and Rodotà. At its 51st Plenary Session, the Commission endorsed their comments on the subject. These comments conclude that in this relatively new field of law States enjoy a wide margin of appreciation that Luxembourg had not overstepped. Accordingly, the draft law in question can be regarded as a satisfactory one, both from the standpoint of constitutional law and from that of EEC law.

Draft Law on Freedom of Expression in the Media

At the same session the Commission endorsed comments on the draft Law on Freedom of Expression in the Media by Messrs Luchaire and Van Dijk. Both rapporteurs conclude that the draft is excellent and, in substance, in conformity with the requirements of Article 10 of the European Convention on Human Rights.

Certain issues nevertheless have to be raised, notably: the principle of presumption of innocence must be upheld even in cases of prevailing public interest; interference by the press in individuals private life must be in conformity with Article 8 of the Convention; a right to reply to rectifications of published information must be foreseen; the provision for the possibility for only one heir to sue the press on account of alleged defamation of a deceased person seems unreasonable; the provision on the need to indicate the country of residence of those owing more than 25 % of the capital seems unnecessary; the obligation to publish the name of the author of an article is too absolute.

Draft Law on the establishment of a Mediator

In October, at its 52nd plenary session, the Commission adopted an opinion on the draft law on the establishment of an Ombudsman institution in Luxemburg, prepared on the basis of the comments by Ms Serra Lopes and Mr Ragnemalm.

This opinion concludes that the Luxembourg authorities have taken inspiration from the French model but have improved it, notably by not requiring that complaints should be addressed to the Ombudsman through a Parliamentarian. Moreover, the circumstances under which Luxembourg chose to establish a Mediator rather than an Ombudsman - which implies more limited powers - are underlined, as well as the need for the Mediator to supervise respect for human rights. In all, the draft is considered to be a good one and the institution would be useful in assisting private persons in dealing with the authorities.

The Luxembourg authorities, which were in the process of examining the draft law, indicated that the comments of the Venice Commission and the comments prepared by Directorate General II of the Council of Europe, which had co-operated with the Commission on this matter, would prove very useful.

13. MEXICO

At the beginning of 2002, Senator Camacho (PRI, opposition) asked the Venice Commission, through the Observer of Mexico to the Council of Europe, to prepare an opinion on a draft revision of the Constitution he had drafted.

Messrs Tuori, Vogel and Beaudoin made comments on the proposed revision of the Mexican Constitution for the Commissions 52nd Plenary Session, in October. These comments underlined that the Constitution had been amended on numerous occasions and is very complicated. As a result, the division of competences between the different levels of power (Federation, States, Communes) should be reviewed. In particular, the proposal for the introduction of concurrent competences i.e. *facultades concurrentes* and the role of the different State organs should be specified.

Concerning the financial and budgetary aspects, it was deemed necessary to seek further information. The States are very dependent on the Federation in this field. The question is whether it is necessary to redistribute between the Federation, the States, and the municipalities not only legislative, executive and judicial powers, but also economic resources. At any rate, the tax system has to be simplified.

In response, the Mexican observer on the Commission undertook to send more detailed information in the near future as regards such questions. He also declared that he was favourable to the adoption of an entirely revised Constitution, clearly establishing the competences of the Federation and the States, the residual competence being conferred on the States. At the following plenary session, in December, the Mexican observer informed the Commission that the process of the constitutional reform is on-going, with reforms leaning towards more federalism and parliamentary power.

14. MOLDOVA[21]

A. Constitutional amendments and constitutional justice

Draft amendments to the Constitution of Moldova concerning Gagauzia

At the end of 2001, Moldova requested advice from the Commission with respect to the draft law on the modification of its Constitution, in particular concerning the status of Gagauzia. At the time, the Vice-Speaker of the Moldovan Parliament informed the Commission about the process of constitutional reform in Moldova and other internal developments. Speaking about the draft constitutional amendments concerning the status of Gagauzia, he also stressed that the Moldovan authorities were ready to include new constitutional provisions on this autonomy, in the hope that they would give a positive example to Transnistria and facilitate a dialogue with this entity. The Vice-Speaker highly praised the constructive dialogue between Moldova and the Commission and stressed that the

authorities of his country would do their best to follow the opinion given by the experts of the Commission.

At the invitation of the Moldovan authorities a delegation composed of Messrs Hamilton, Tuori and Vintro, and two members of the Secretariat of the Commission visited Moldova in February. The purpose of this visit was to meet representatives of the Moldovan and Gagauz authorities and to discuss the draft law on constitutional changes relating to autonomous regions within the Republic of Moldova, with particular reference to the territorial autonomy of Gagauzia.

The consolidated opinion which was subsequently produced and adopted at the 50th Plenary Session in March, on the basis of comments given by these experts, concludes that the proposed draft law on constitutional amendments concerning Gagauzia is a positive development since it recognises the existence of the autonomy and determines its competences at the level of the Constitution of the Republic of Moldova. Nevertheless the draft law has a number of shortcomings that should be studied by the parties involved in the process.

It seems, however, that no further studies or developments have taken place since then, as the draft law and the initiative of modifying the constitution with regard to the status of Gagauzia were postponed or abandoned altogether, presumably due to the political complexity of the project. It is the Commissions view, however, that the parties should not be deterred by the apparent complexity of the project and that they should pursue with their amendment efforts, for the 1994 law establishing Gagauzia as an autonomous territorial entity might be in conflict with the Constitution, a situation which could provide for greater complications in the long term.

Draft law on the Constitutional Court of Moldova

The Commission further adopted an opinion on the draft Law on the Constitutional Court of Moldova and corresponding constitutional amendments, at its 51st Plenary Session in July. The opinion, drawn up on the basis of comments by Messrs Klučka, Pinelli and Solyom, concludes that, while the draft constitutes a good basis for discussion, several issues ought to be addressed.
As it stands, the draft results in a shift away from constitutional guarantees for constitutional justice to its regulation at the level of ordinary law. Issues like the list of subjects that can appeal to the Constitutional Court and the immunities of the judges of the Court should be regulated directly in the Constitution. On the other hand, the draft contains too many procedural details that should be dealt with in the rules of procedure of the Court rather than on the level of law. Otherwise, an intervention by Parliament with the risk of political interference in the activities of the Court will be necessary in order to change even minor details in the Court's procedure. The Court should not have jurisdiction over the verification of the circumstances justifying the dissolution of Parliament and opinions on constitutional amendments because these issues risk drawing the Court into politics.

The provisions on the introduction of an individual appeal should also be set out in a clearer form, especially as this concerns the effects of decisions in these cases and the procedure to be followed (decisions to be taken by chambers and not only by the Plenary of the Court).

Further draft amendments to the Constitution of Moldova

Finally, the Commission took advantage of the July session to endorse opinions by Messrs Hamilton and Lopez Guerra regarding various draft amendments to the Constitution of Moldova. Both opinions are critical, in particular as regards to abolishing the constitutional guarantee of parliamentary immunity, the shift from judicial self-control to parliamentary control of the judiciary and the vagueness of the rules on the Higher Magistrates Council. By contrast, the introduction of provisions on the Ombudsman into the Constitution is welcome.

B. Other laws

At its 52nd Plenary Session, the Commission endorsed opinions concerning three other laws: the draft law on political parties in Moldova, the Law on the organisation and conduct of public assemblies of the Republic of Moldova and the Law on the status of parliamentarians of the Republic of Moldova.

Draft law on political parties in Moldova

As regards the draft law on political parties in Moldova, the Commission endorsed an opinion by Mr Hamilton which compares the provisions of the draft law to the requirements of Articles 10 and 11 of the European Convention on Human Rights, the case-law of the European Court on Human Rights and the provisions of the Guidelines on prohibition and dissolution of political parties and analogous measures adopted by the Venice Commission in 1999.

The conclusions of this opinion are that a democratic State should recognise and protect the right of persons to establish political parties. The prohibition and suspension of such parties can only be justified in exceptional cases if they advocate the use of violent means to achieve their goals and respect the principle of proportionality. To that effect, the text of the draft law is well structured and logical but too detailed. As for the content, some chapters of the draft law raise a number of problems in the light of the European Convention. For example, some provisions prevent the registration of a party if it fails to prove that it has supporters in at least half of the administrative units of the country or provide the Minister of Justice with excessive control over the process of establishment and the activities of political parties.

Co-operation with Moldova on this law is continuing in 2003.

Law on the organisation and conduct of public assemblies of the Republic of Moldova

The Commission also endorsed comments by Mr Nolte on the law on the organisation and conduct of public assemblies of the Republic of Moldova. While the Commission already examined the law on public assemblies in 1995 and a number of the Commissions observations from 1995 are still valid, the text examined by Mr Nolte is an amended version of the previous law. The general conclusion in the opinion is that many provisions of the law are vague and can lead to misinterpretation. The proposed authorisation system for public meetings does not fully guarantee the respect of the principle of political neutrality of the authorising authority and there is little possibility of an effective judicial review of a decision by a body prohibiting the assembly.

Law on the status of parliamentarians of the Republic of Moldova

The Commission, finally, endorsed comments by Mr Grabenwarter on the law on the status of parliamentarians of the Republic of Moldova. Three major issues are examined in the opinion: the revocation of the mandate of the deputy, parliamentary immunity and the position of a deputy.

As to the first point, the law is not clear what type of offences leads to the revocation of the mandate of a parliamentarian (although such a decision is currently to be approved by the Constitutional Court). On the second point it should be stressed that the law makes no distinction between parliamentary immunity and inviolability. In this context, the role of the parliamentary commission on nominations is not clear. In connection with the problem of the position of a deputy, finally, Mr Grabenwarter pointed out that the law does not define the role of political groups and solely examines the status of individual members of the parliament. This might be problematic since extensive rights of individual parliamentarians and the lack of provisions on political groups could compromise the normal operation of the legislature.

Election law

In August, the Commission was asked by the Secretary General to analyse the Election Law of Moldova. Following this request, the Commission appointed Messrs Rose and Vollan as rapporteurs on the subject. At its 53rd plenary session, the Commission endorsed the comments of these rapporteurs and authorised the Secretariat to prepare a consolidated opinion based on these comments, in order to be submitted to the Secretary General in January 2003.

While the experts agree that the unification of the whole electoral legislation is a welcome initiative from a general perspective, they nevertheless conclude that many areas of concern remain in the law, including the need to lower the threshold required to be represented in parliament and to change the countrys single constituency into a system of local constituencies.

The members of the Parliament of Moldova are elected in a single constituency under a proportional list system. There is a representation threshold of 6% for parties, 9% for blocks (pre-election coalitions) consisting of two parties, and 12% for blocks of three of more parties; for independent candidates, finally, the threshold is 3%.

The experts first conclude that lowering the aforementioned thresholds should be a priority, in order to reduce the number of lost votes. This is especially important for national minorities. Moreover, independent candidates would also stand a better chance of being elected.

Furthermore the opinion points out that changing the single constituency into a system of local constituencies would provide geographically concentrated minorities such as the Gagauz with a fair chance of being represented, even with representatives from a variety of parties or political directions.

In addition a seminar on The role of the Constitutional Court in society was held in Chisinau on 17-18 June 2002, in co-operation with the Constitutional Court of Moldova.

15. ROMANIA[22]

Constitutional reforms

In 2002, a draft revision of the Constitution of Romania was prepared with the double objective of adapting the Constitution to European law, in view of the accession of the country into the European Union, and revising other provisions, in particular relating to legislative power, based on experience acquired since the adoption of the Constitution.

The Commission adopted an opinion on this draft. This text, drawn up by the Secretariat on the basis of contributions from Messrs Batliner, Constantinesco, Robert and Vintro, and adopted by the Commission at its 51st Plenary Session, is based in particular on the domains and objectives taken into consideration for the revision of the Constitution, as presented by the Romanian authorities.

The experts assessed the draft positively, although a certain number of points remained to be looked at, which include, in particular: the holders of fundamental rights and the restrictions on those rights; the presumption that members of parliament who were consistently absent had renounced their parliamentary office; the possibilities of dissolution of Parliament; the composition of the Supreme Council of Justice: the working group proposed a balance between the judges, the representatives of public power and members of the civil society.

Later in the year, the Romanian authorities drafted a revised version of the constitutional amendments where several of the points which were highlighted as problematic in the earlier opinion no longer appear, in particular the presumption of renouncing the parliamentary mandate in cases of absenteeism. At its 52nd Plenary Session, the Commission thus adopted a complementary opinion which emphasises the principal elements of this second draft.

The opinion insists on several points that still have to be addressed, in particular concerning rights of citizens of the European Union to acquire land, the clarification of the cases in which emergency orders are possible, the non-renewable character of the mandate of Constitutional Court judges and the *erga omnes* effect of its decisions.

Co-operation between Romania and the Venice Commission on the reform of the Constitution will continue in 2003.

Seminar on the relations between the Constitutional Court and the Parliament

A seminar organised in Bucharest in November 2002 in co-operation with the Constitutional Court and the Romanian Foundation for Democracy through Law provided a further opportunity to address issues relevant in the framework of constitutional reform. The general topic of the seminar was relations between the parliament and the constitutional court. Discussions focused on the *erga omnes* effect of decisions of the Constitutional Court, the consequences of a decision declaring a law or draft law unconstitutional and the application of international treaties and the control of their constitutionality. In line with the Commissions opinion, participants criticized the possibility for parliament to overturn decisions of the constitutional court by a qualified majority.

16. SOUTH AFRICA

There were no specific activities with South Africa during 2002, other than the participation of the Director of the Constitutional Court of South Africa in the 2nd Conference of Secretaries General of Constitutional Courts and Courts of Equivalent Jurisdiction (Madrid, 14-15 November 2002). Co-operation with South Africa should resume in 2003.

Within the framework of the Programme Democracy, from the Law Book to Real Life funded by the Swiss Government, 10 Constitutional and Supreme Courts from Southern African countries were equipped with PCs in order to enable them to prepare their constitutional case-law in view of its integration into the CODICES database of the Commission. The courts concerned expressed their gratitude for this equipment. First contributions were already included in the database.

17. THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA[23]

At the 51st Plenary Session, in July, the Commission adopted an opinion by Mr Nolte on the draft proposal for Rules of Procedure of the Assembly of the Republic of Macedonia. This opinion focuses on the compatibility of the draft with the Ohrid Framework Agreement and the related constitutional amendments. This Agreement was concluded in August 2001 to put an end to the conflict between the authorities and ethnic Albanian rebels. The Venice Commission was involved in the drafting of the Agreement by providing legal advice to the EU mediator, Mr François Léotard[24]

The general comments made in the opinion are that:

The Draft Proposal contains no rules which explicitly deal with the Committee for Inter-Community Relations, a Committee that plays a decisive role with respect to the determination of the issues requiring a double majority of all members of parliament and the members of parliament from minority communities. It should therefore be regulated explicitly in the Chapter VIII of the Draft Proposal.

In this connection it should also be noted that the Draft Proposal contains no rule to determine which working body is competent in case of dispute between different working bodies.

Finally, the opinion suggests that the Assembly could enact more specific rules concerning the names and competences of its different working bodies in an *ad hoc* manner. However, because the Committee for Inter-Community Relations is a constitutionally mandated working body and because the question of deter mination of competences is a general question, it appears necessary that these issues be regulated explicitly in the Rules of the Assembly.

The opinion also offers more specific comments on a number of legal provisions which include, *inter alia*, provisions on the use of official language, group affiliations, the status of independent members of Parliament and other issues of double majority.

18. TURKEY

At the 53rd Plenary Session in December Mr Özbudun gave detailed information on the constitutional amendments of 2001 and the Law dated 3 August 2002 concerning in particular EU conditionality on Turkeys membership. The amendments involve 34 articles of the Constitution. While some of these amendments deal with matters of detail or are simply changes in language which did not create a significantly different legal situation, others are in the nature of genuine democratic reforms.

The Commission published in 2002 in its series Science and technique of democracy a volume on Constitutional implications of accession to the European Union dealing specifically with the situation in Turkey based on a seminar organised in November 2001 in Ankara in co-operation with Bilkent University.

19. UKRAINE[25]

Law on Political Parties of Ukraine

In November 2001, the Venice Commission was asked by the Parliamentary Assembly of the Council of Europe to issue an opinion on the Ukrainian legislation on political parties and in particular on the Law on Political Parties.

During its 50th plenary session, held in March, the Commission examined the comments submitted by Messrs Vogel and Stoica on the Law on Political Parties of Ukraine. The Rapporteurs pointed out a number of problems in the examined legislation, which were at risk of running contrary to the principles of modern pluralistic democracies.

The threshold for founding political parties is considered to be very high, and so are both the demands on their future activities and the risks if full compliance is not achieved. Political parties have to be active nationwide, which would prevent parties focusing on and with support concentrated in some parts of the country from operating. Further, the law contains a general exclusion of foreign citizens and stateless persons from membership of political parties, which constitutes more than the generally possible restrictions to their political activities.

During the same session, Mr Orzikh, Professor of Law at the Odessa National Academy, representing the Ukrainian authorities, argued conversely that the requirements for the operation of political parties were in conformity with the Ukrainian Constitution and not excessive. Indeed, he claimed that since the law entered into force only ten applications for registration of a political party had been refused or withdrawn, and always for formal reasons. Only one appeal had resulted in the obligation to register the party, while another case was pending before the competent court. As for the exclusion of foreigners and stateless persons from membership of political parties, he stressed that otherwise they enjoyed the same rights as Ukrainian citizens under article 26 of the Constitution.

After this exchange of views with Mr Orzikh, the Commission instructed the Secretariat to seek more information concerning the implementation of the law on Political Parties, following the elections scheduled for 31 March, and to prepare a consolidated opinion based on the comments of two Rapporteurs Messrs Tuori and Vogel.

Following a visit to Ukraine a second opinion on the Ukrainian Law on Political Parties was drawn up which drew conclusions similar to the preceding comments on the subject and was adopted by the Commission during its July session. In this opinion, Mr Tuori explains that the legislation under consideration raises certain issues; in particular, the requirement that political parties should be active nationwide and the absolute restrictions on the political activities of foreigners and stateless persons seem contrary to European standards and practice. Furthermore, the powers of the Ministry of Justice to control political parties should be set out in a more detailed manner. The opinion also refers to the statement by the Ukrainian authorities that the financing of political parties would be done in accordance with the guidelines provided for by the Commission.

Resolution of the Verkhovna Rada on the Principles of the State Policy of Ukraine in the field of Human Rights

At its 50th Plenary Session, the Commission adopted an opinion on the Resolution of the Verkhovna Rada on the Principles of the State Policy of Ukraine in the field of Human Rights. This opinion recalls that, when Ukraine acceded to the Council of Europe, one of its commitments was the adoption of the framework act on the legal policy of Ukraine for the protection of human rights. This law was never adopted and the Resolution that was the subject of this opinion could not be considered equivalent.

Nevertheless, Ukraine has ratified the European Convention on Human Rights and a number of other international instruments. Moreover, a whole chapter of the Ukrainian Constitution is devoted to the protection of fundamental rights and freedoms. In this context one might consider that other legal instruments both international and national already cover the guarantees that could be subject to this law. The opinion therefore concludes that the enactment of the framework act as part of the commitments of Ukraine upon accession to the Council of Europe no longer appears relevant. What is now essential is that the texts in force be applied in conformity with European and international standards.

20. FEDERAL REPUBLIC OF YUGOSLAVIA

Following a request from EU High Representative Solana in early January the Venice Commission provided legal advice during the talks on the constitutional future of the Federal Republic of Yugoslavia. Montenegro as one of the two member Republics has not recognised the Federal authorities since 1998 and its leadership was committed to obtaining independence. The Federal authorities and the other member Republic, Serbia, favoured maintaining the Federation on a new basis.

Thanks to the personal involvement of High Representative Solana serious negotiations aimed at finding a mutually acceptable solution took place for the first time. On 14 March 2002 an agreement was concluded in Belgrade setting out the principles on which a future state union called Serbia and Montenegro should be based. This Agreement was witnessed by High Representative Solana and subsequently approved by the parliaments of the FRY, Serbia and Montenegro. The parliaments set up a Constitutional Commission with the task of drafting the Constitutional Charter of the future state union.

It became soon apparent that the Belgrade Agreement was interpreted in a very different manner by the various political actors. It proved not possible to reach consensus on a single draft as a basis for the work in the Constitutional Commission. The representatives from the majority parties in Montenegro argued for a loose union of a confederal type while most other members advocated a federation with limited powers mainly in the fields of human rights and the internal market.

In order to contribute to a solution, Venice Commission experts prepared in co-operation with the European Union at the end of June draft elements to be included in the Constitutional Charter providing possible solutions for most issues. In addition, Messrs Jowell and Markert repeatedly exchanged views with the drafting committee of the Constitutional Commission. While a majority in the Constitutional Commission generally supported the text prepared by the Venice Commission, representatives from Montenegro considered that the powers of the union authorities were too strong under the proposal.

Negotiations continued throughout 2002 and into January 2003. Only on 4 February 2003 the Constitutional Charter was finally adopted. Many of the elements proposed by the Venice Commission are included in the text although the powers of the union bodies are weaker than proposed by the Venice Commission.

21. CONSTITUTIONAL DEVELOPMENTS IN OTHER MEMBER AND OBSERVER STATES

In 2002 the Commission continued its regular exchanges of views with its members, begun in 2000, on constitutional issues of interest in their countries that had not formed the object of the Commissions work, in particular with intervenants from members or substitute members from the following countries:

- Canada on the ratification of the Kyoto treaty;
- Cyprus on the proposal by the UN Secretary General for the settlement of the Cyprus issue;
- Estonia on the changes brought about by the adoption of the new Constitutional Review Court Procedure Act in Estonia;
- France on the decision of the Constitutional Council on Corsica, the reform of institutions, on the Presidential election campaign, on Presidential immunity and on draft constitutional law on decentralised government;
- Germany on the judgment of the German Constitutional Court concerning ritual slaughtering of animals and about the decision of the same court to postpone the party prohibition procedure against the extremist right wing party NPD because of the discovery of secret collaborators of the security agencies amongst the NPD officials;
- Israel: until the adoption of two basic laws on Human Dignity and Liberty and Freedom of Occupation of Israel, adopted by the Knesset in 1992, no constitutional review had existed in Israel. These laws had been modelled along the lines of the European Convention on Human Rights. The Israeli Supreme had taken up these laws as the basis for introducing constitutional review of laws in Israel. These laws became the yardstick for review not only of laws but also of government acts including those on the armed forces in combat;
- Japan on recent developments in the country, in particular the fact that the death penalty is now a subject of public debate in Japan for the first time;
- Korea on recent developments in the Korean peninsula;
- Lithuania on recent constitutional developments in Lithuania in particular concerning the process of constitutional revision;
- Portugal on the constitutional reform of 2001, which made the necessary changes to allow the Portugal to join the Rome Statute of the International Criminal Court;
- Slovenia on proposals for constitutional revision;
- Sri Lanka on the situation regarding the peace talks between the Tamils and the Government;
- Switzerland on the reasons for the latest constitutional reform in Switzerland, which had resulted in the adoption of a new Constitution, in force since 1 January 2001;
- United States of America on recent developments with regard to respect for individual rights, separation of powers and the US relationship to international law in the context of the post 11 September situation.

III. STUDIES, REPORTS AND SEMINARS OF THE COMMISSION

1. STUDIES AND REPORTS OF THE COMMISSION

While most of the work of the Commission is country specific, the Commission also prepares, through its own initiative and at the request of outside bodies such as the Parliamentary Assembly of the Council of Europe, studies and reports addressing problems of general interest in the member and observer states.

Implementation of judgments of the European Court of Human Rights

The implementation of judgments of the European Court of Human Rights is a vital segment in the European mechanism of human rights protection. It depends on, and at the same time ensures, the credibility of the Court and thus the effectiveness of the European Convention on Human Rights itself. Most judgments have been duly, or at least partly executed by member States of the Council of Europe. Yet, a number of problems have recently arisen, ranging from massive numbers of repetitive applications to explicit refusal by a State to abide by a judgment.

The Council of Europe has become worried about this situation, and several of its bodies, notably the Parliamentary Assembly, have engaged in this matter. In particular, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly carried out an analysis of the problems currently encountered in enforcing the Courts judgments, making proposals as to possible ways of fostering execution in particular by empowering the Committee of Ministers with additional means (such as the possibility of imposing daily pecuniary fines on recalcitrant States), and subsequently requested the Commission to examine the various proposals.

The Commission thus prepared an opinion on Implementation of judgments of the European Court of Human Rights (CDL-AD (2002) 34). It uses, as a starting

point, the analysis of the factual problems encountered in the procedure before the Committee of Ministers, carried out by the Assembly Committee. It looks at the proposals made by the Parliamentary Assembly as well as other bodies such as the Evaluation Group of the Committee of Ministers.

The Commission expresses the view that the proposed additional powers for the Committee of Ministers, including to impose daily fines and to request an interpretation from the Court on certain judgments, would be of little added value. Instead, it takes the view that the Court should play a more active role in this respect, notably by adopting a more execution-oriented drafting technique in its judgments and by more actively seeking to obtain *restitutio in integrum*, as opposed to awarding just satisfaction. In this manner, the Court would put itself in a position to express its view on the adequacy of the execution measures taken or proposed by respondent States, thus building up a detailed case-law on these matters, to great avail of the Committee of Ministers. The Commission also makes a few suggestions on how to improve the supervision procedure before the Committee of Ministers (for example through drafting guidelines on the kind of general measures that a State has to take in order to remedy a given violation of the Convention, and through setting up a system of sanctions for States which do not co-operate effectively in the procedure before the Committee of Ministers).

The Commission also welcomes the initiative of the Parliamentary Assembly to take up a more active role in these matters, and considers that a constructive, on-going dialogue should be established between these two bodies and the Committee of Ministers

The law of political parties

The Commission is increasingly solicited to provide opinions on (draft) legislation on political parties. To make its approach more systematic and coherent, the Commission started preparing a study on the law of political parties. This study will draw on the experience already acquired and provide future rapporteurs of the Commission with a reference document. The study should be adopted in 2003.

Code of Good Practice in Electoral Matters

Information on the Code of Good Practice in Electoral Matters is provided in Part V of this Report concerning Electoral law.

2. THE UNIDEM PROGRAMME

The UniDem (Universities for Democracy) programme of the Commission provides an opportunity for in-depth discussion of salient problems. Its long established and more academic aspect is a series of seminars on topics linked to the Commissions work.

In 2001 the Commission established a UniDem Campus for the training of civil servants from South Eastern Europe to address the pressing needs in this sector (see below point d.).

UniDem seminar on The re-invention of the State - Political Democracy and Legal Order in Central and Eastern Europe, Paris, 5 6 April 2002

From 5 to 6 April 2002 the Commission organised in co-operation with the Centre of Balkan studies and research (University Montesquieu Bordeaux IV) and the Senate of the French Republic a seminar on The re-invention of the State: Political Democracy and Legal Order in Central and Eastern Europe.

The working sessions of this conference were attended by specialists in constitutional law and related topics as well as by researchers from almost all countries concerned (more than 160 participants).

The conference was split into four working sessions on: the evolution of the idea of the State in post-communist societies; tensions in transitional States between legal requirements and political evolution; the rule of law and political democracy; Constitution and elections as the basis for legitimacy; the question of State power.

The speakers touched upon a great number of priority issues for these countries. In particular, speakers focused on such subjects as: ambiguities in the Post-Communist Concept of a National State, the Constitutional Order of CIS States in the light of the European Convention on Human Rights; institutional reforms in response to the challenge of minorities; elections, a sensitive point in establishing the rule of law;

UniDem seminar on The resolution of conflicts between the Central State and entities with Legislative power", Rome, 14-15 June 2002

The Commission organised, in co-operation with the Italian Constitutional Court, a UniDem Seminar entitled "the resolution of conflicts between the Central State and entities with Legislative power", in Rome on 14-15 June 2002.
The Unitary State is becoming less and less a conventional model and federalism and regionalism are thus high on the Commissions agenda. So are the issues of constitutional justice, without which any Constitution today would be considered a *lex imperfecta.* In federal and regional states and other states comprising entities with legislative powers (autonomous regions), the Constitutional Court must ensure the peaceful settlement of disputes between the central state and its entities. The seminar dealt with the law and practice in this matter in the States concerned.

The seminar brought together specialists from more than twenty European and North American States, most of them judges from Constitutional Courts and equivalent bodies. The courts of most European States including entities with legislative powers were represented.

The reports relating to federal States dealt with Germany, Switzerland, Russia, Yugoslavia, the United States and Canada, whilst in the part of the Seminar on States with a regional structure the United Kingdom, Spain and Italy were discussed. Finally reports were presented on the situation in the following Unitary States having regions enjoying an autonomous status: Finland, Portugal, Azerbaijan, Moldova, Ukraine.

The proceedings of the Seminar will be published in the series Science and Technique of Democracy.

UniDem seminar on Constitutional Courts and European Integration, Kosice, 20-21 September 2002

The Commission organised this seminar in co-operation with the Constitutional Court of Slovakia. The question of the relations between international law and domestic law was addressed by the Venice Commission as early as 1992 in Warsaw. This is the fourth event on the legal implications of European integration within the framework of the Commissions UniDem activities. At present, with the EU accession negotiations at their final stage for a number of candidate-countries, this theme touches upon the most valid questions addressed by the European legal community.

The seminars aim was to examine the role of the constitutional courts and courts of equivalent jurisdiction in the application of national constitutions and European treaties. Existing schemes of dualistic versus monistic relations between the national and European texts were exposed. Related questions of national sovereignty and supremacy of community law were also addressed. Common legal norms and principles formulated in a European constitution, were considered necessary for a sensible integration process.

The seminar was organised within the framework of the Joint Programme between the European Commission and the Venice Commission for strengthening democracy and constitutional development in central and Eastern Europe and the CIS. The proceedings of the Seminar will be published in the series Science and Technique of Democracy.

UniDem Campus for the legal training of civil service

This initiative, launched in 2001, responds to the need of ensuring stability in South East Europe. After completion of important legal reforms in these countries, it appeared indeed essential that their implementation, notably by the relevant public administrations, should be made according to the standards of the Council of Europe: democracy, respect for human rights and the rule of law. For this reason, this programme of legal training for civil servants from nine countries of South-Eastern Europe was set up by the Commission.

The Campus continued its activities in 2002 through six five-day seminars on the following subjects:

- *The Principle of non-discrimination and the protection by the Public Administration of the rights of ethnic, religious and linguistic Minorities* (January 2002);
- *The internal effects of European Community Law* (March 2002);
- *Efficiency of the public service and fundamental rights* (May 2002);
- *Access to information and fundamental rights* (July 2002);
- *Human Rights protection in Europe: the CoE, the EU, the OSCE and the UN systems* (September 2002);
- *Standards of public life, including institutional means to avoid corruption* (November 2002).

These seminars were attended by approximately one hundred and fifty civil servants, who are, in their turn, expected and required to share the knowledge which they acquired at the Campus amongst their own colleagues.

The high attendance, coupled with the quality of participation, confirms the success of this initiative.

3. OTHER SEMINARS AND CONFERENCES

Conference on Legal frameworks to facilitate the settlement of ethno-political conflicts in Europe, Baku, 11-12 January 2002

In co-operation with the Azerbaijani Constitutional Court and as part of the Joint Programme of the European Commission and the Venice Commission for strengthening democracy and constitutional development in Central and Eastern Europe and the CIS, the Venice Commission organised a conference on Legal frameworks to facilitate the settlement of ethno-political conflicts in Europe.

The conference, which was an Azeri government initiative, was held in Baku on 11 and 12 January 2002. In addition to the experts invited by the Venice Commission, it was attended by some 80 delegates, most of them from Azeri State universities and institutions.

The conference provided a timely opportunity to discuss with the parties concerned the Commissions study on the preparation of a general legal reference framework in order to facilitate the settlement of ethno-political conflicts in Europe (doc. CDL-INF (2000) 16), which it had carried out at the invitation of the Italian Presidency of the Committee of Ministers.

The Azerbaijan speakers used this opportunity to present their position on the problem in Nagorno-Karabakh, as well as on legal, political and historical factors which ought to be considered in finding a solution to this conflict.

The presentation of different legal approaches to the distribution of powers, the sharing of comparable experiences and the atmosphere of constructive dialogue which marked the entire conference all contributed to the success of a shared effort to identify, compare and appraise the different legal techniques which could be employed in drafting a legal model for resolution of the conflict in Nagorno-Karabakh. The Venice Commission delegation was received on the occasion of the conference by the President of the Republic of Azerbaijan.

International Colloquy on the Protection of National Minorities by their kin-State (Athens, 7-8 June 2002)

In October 2001, the Commission adopted a Report on the preferential treatment of national minorities by their kin-States (CDL-INF (2001) 19), following a controversy resulting from the adoption by Hungary, in June 2001, of the Act on Hungarians living in neighbouring countries (the so-called Status law). A lot of attention had not previously been paid to this topic by internationalists and academics; the report thus attracted tremendous interest. The Venice Commission subsequently decided to pursue its analysis involving the key-players of minority protection, and organised an international colloquy on this matter, which took place in Athens on 7-8 June 2002.

At the colloquy, reports were presented by representatives of the main international organisations involved in human rights protection (the Council of Europes Advisory Committee on the Framework Convention for the Protection of National Minorities, the OSCE High Commissioner on National Minorities, the United Nations High Commissioner for Human Rights), as well as by representatives of the nine European countries (Austria, Bulgaria, Greece, Hungary, Italy, Romania, the Russian Federation, the Slovak Republic and Slovenia) which have adopted legislation on kin-minorities. Such legislation was examined in detail. Amongst the participants were also representatives of those countries which envisage adopting similar legislation.

The Colloquy was organised within the framework of the Joint Programme between the European Commission and the Venice Commission for strengthening democracy and constitutional development in central and Eastern Europe and the CIS. The proceedings of this colloquy have been published in volume No. 32 of the collection Science and Technique of Democracy.

IV. CONSTITUTIONAL JUSTICE

1. JOINT COUNCIL ON CONSTITUTIONAL JUSTICE

The establishment of the Joint Council on Constitutional Justice was probably the most important achievement in the area of constitutional justice in 2002. On the basis of Article 3 of the revised Statute of the Commission, this body replaces the meetings of the Sub-Commission on Constitutional Justice with the liaison officers from constitutional courts and equivalent bodies. The institution of a co-presidency of the Joint Council, representing the constitutional courts and the Sub-Commission on Constitutional Justice respectively, further underlines the important role of the participating courts in this co-operation.

2. CENTRE ON CONSTITUTIONAL JUSTICE

Since 1992 the Venice Commission co-operates with constitutional courts and equivalent bodies (constitutional councils, supreme courts exercising constitutional jurisdiction, etc.) with a view to fostering a mutual exchange of information between the courts and to inform the interested public about their decisions. To this end, the Commission has established a network of liaison officers with the courts. Three times a year, they contribute to the *Bulletin on Constitutional Case-Law* and the database CODICES of the Commission which are the core of the Commissions Centre on Constitutional Justice together with the library and the Venice Forum allowing for a quick exchange of information between the courts on current issues. The Bulletin and CODICES allow the reader to have a rapid up-to-date overview of major constitutional decisions of the participating courts. Thus, the *Bulletin* and CODICES contribute to the knowledge of the common constitutional heritage in Europe and abroad.

In addition to the regular issues of the *Bulletin*, two special volumes of the Bulletin were prepared in 2002. The first one, published in December, deals with the leading case-law of the constitutional courts of the Czech Republic, Poland and Slovenia, the Supreme Courts of Denmark, Japan and Norway and the Federal Tribunal of Switzerland. This *Bulletin* contains précis which had been presented prior to the participation of these courts in the regular issues of the Bulletin. The inclusion of these decisions in the CODICES database finally allows for a better understanding of the current case-law of the courts concerned by setting it into the context of the evolution of major precedents. The other one on "the relations between the constitutional courts and the other national courts, including the interference in this area of the action of the European courts" was presented in the form of a working document to the XIIth Conference of the European Constitutional Courts in Brussels (see also under regional co-operation below).

The implementation of the merger of the English and French versions of the CODICES database (both CD-ROM and Internet) was welcomed by the Joint Council on Constitutional Justice. At the end of 2002, CODICES contained about 3470 précis and more than 4000 full texts of decisions from constitutional courts and equivalent bodies together with the laws on the courts, their descriptions and constitutions. The process of making the constitutions fully searchable according to the Commissions Systematic Thesaurus has come close to its accomplishment, which is envisaged for 2003.

3. SEMINARS IN CO-OPERATION WITH CONSTITUTIONAL COURTS (COCOSEM)

In order to strengthen the position of constitutional courts as the guarantors of constitutional rights and the rule of law, the Venice Commission established in 1996 a series of seminars entitled "CoCoSem". Since then, such seminars have taken place in Armenia, Azerbaijan, Bosnia and Herzegovina, Estonia, Georgia, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Russia, South Africa and Ukraine. In 2002, the CoCoSem programme focused on three main issues: the role of the constitutional court in the protection of human rights, practical questions of the organisation of the courts and the implementation of their decisions.

The one subject which has been particularly requested in 2002 was the role of the constitutional court in the protection of human rights. This topic was the subject of the Conference on Effective Remedies for the Protection of Human Rights: the Role of the Constitutional Court held in Sarajevo in co-operation with the Constitutional Court of Bosnia and Herzegovina on 23-24 May and the Seminar on International Experience and Perspectives of Human Rights Protection before the Constitutional Court organised in Yerevan in co-operation with the Constitutional Court of Armenia (4-5 October) in which the President of the European Court of Human Rights participated. The Conference on Human Rights Protection Systems co-organised with the Constitutional Court of Kyrgyzstan (Bishkek, 21-22 November) was oriented to the particular needs of a non-European country which is not a subject of the jurisdiction of the European Court of Human Rights. Therefore, the UN and OSCE human rights protection mechanisms were addressed with special attention.

The constitutional complaint is probably the most effective means of ensuring constitutional rights because it permits each person to seek redress for human rights violation before an instance which is specialised in the protection of the constitution and the rights which it confers. Consequently, the seminar on the Protection of Fundamental Rights by the Constitutional Court by means of the Individual Complaint held in co-operation with the Constitutional Court of Azerbaijan (8-9 November) focussed on the implementation of the new Law on the Constitutional Court which for the first time introduces the individual complaint to this Court. This Law had been the object of an opinion by the Venice Commission (CDL-AD (2002) 5). Similarly, the seminar on the Role of the Constitutional Court in Society held in co-operation with the Constitutional Court of Moldova (Chisinau, 17-18 June) allowed for the in-depth discussion of the Commissions opinion on the Draft Law on the Constitutional Court (CDL-AD (2002) 16) introducing the individual complaint to the Constitutional Court. Access by the individual to constitutional courts - or in the case of Estonia the Constitutional Review Chamber - was the main focus of the seminar on Topical Issues of Constitutional Review: Experience and Development of the First Decade (1-2 November, Tartu, Estonia). In the human rights related seminars, the important role of the Constitutional Court as an effective instance open to the individual in order to get redress for human rights violations on the national level - thus helping to avoid further burdening the Strasbourg Court - was a subject of particular attention.

Other seminars centred on more practical questions of the functioning of the constitutional courts. These issues are most relevant for the protection of human rights as well because only a court which can work smoothly is able to fulfil its tasks which are so important for the rule of law and the protection of constitutional rights. At the Conference on Constitutional Control: Basic Problems of Practice, Organisation and Legal Proceedings held in co-operation with the Constitutional court of Georgia (Batumi, 3-4 June) questions such as the organisation of the docket and the role of the Secretariat of the Constitutional Court in case-management were embarked upon.

The most important event in this respect was the Conference of Secretaries General of European Constitutional Courts which was held in Madrid upon invitation by the Constitutional Tribunal of Spain (14-15 November) in which more than 40 secretaries general participated. The Commissions Secretariat presented a comparative report on the role, status and functions of secretaries general of constitutional courts, which was based on the replies to a questionnaire. Major subjects of the Conference were the role of the Secretary General in pre-judicial proceedings, especially in relation to individual complaints, electronic filing of cases, the administrative management of the Court including its budget and the role of the Secretary General in the relations of the Court with state authorities and the media.

The third major subject embarked upon in 2002 was the implementation of the decisions of constitutional courts. During the seminar on the Relations between the Constitutional Court and Parliament held in Bucharest in co-operation with the Romanian Foundation for Democracy through Law and the Constitutional Court of Romania (29-30 November) special attention was given to the obligation for Parliament (but also for executive) to fully implement the decisions of the Constitutional Court. In an even more concrete manner this subject was dealt with at the Conference Constitutional Court, the Upholder of the Observance of the Constitution held at the occasion of the 10th Anniversary of the Constitutional Court of Albania (25 November). This Conference took place in the light of the serious problems which this Court faced during the tenth year of its existence. Following a decision annulling the destitution of the Prosecutor General who had not been given a fair procedure, the very existence of the Constitutional Court was questioned by high ranking politicians. The Speaker of Parliament stepped down and qualified the Courts decision as being unconstitutional. By virtue of a decision taken at the 51st Plenary Session (Venice, 5-6 July 2002), the President of the Commission expressed towards the Albanian authorities the concerns of the Venice Commission in relation to the non-implementation of a recent decision of the Constitutional Court of Albania. In November, the Conference again gave the Commission an opportunity to insist on the necessity to uphold the rule of law by respecting the decisions of the Constitutional Court.

Finally, the Nordic-Baltic Conference on Interpretation and Direct Application of the Constitution organised in co-operation with the Constitutional Court of Lithuania (Vilnius, 15-16 March) explored the models of concentrated and diffuse constitutional control. The case-law of the European Court of Human Rights and its application of the principle of proportionality was seen as a unifying factor bridging these two models.

4. REGIONAL CO-OPERATION

Following a request by the Belgian Presidency of the Conference of the European Constitutional Courts, the Commission presented a working document on the topic of the XIIth Conference (Brussels, 14-16 May 2002) on "the Relations between the Constitutional Courts and the other National Courts, including the Interference in this Area of the Action of the European Courts". This working document was warmly welcomed by the Conference and provides a quick overview

of the case-law on the subject. Later in the year, the preparations for publishing a revised edition of this working document in the form of a Special Bulletin continued.

In view of the request by the Constitutional Court of Belarus to become a full member of the Conference of the European Constitutional Courts which had not been approved, the Circle of Presidents of the Conference invited the Venice Commission to re-establish contact with the Constitutional Court of the Republic of Belarus and to report on that matter with respect to the Preparatory Meeting of the XIIIth Conference to be held in Cyprus in 2003. Consequently, the Commission asked this Court to provide information about its case-law handed down since 1997 in view of its publication via the *Bulletin on Constitutional Case-Law* and undertook to organise an event which is intended to strengthen the Courts independence *vis à vis* the executive power.

On 26 January 2002, the Protocol to the Co-operation Agreement between the Venice Commission and the Association of Constitutional Courts using the French Language (ACCPUF) was signed in Djibouti. By virtue of this Protocol, ACCPUF provides the case-law of its member courts for integration into the CODICES database. A considerable amount of data from ACCPUF could be integrated during 2002. In order to allow searches with a particular regional focus, the CODICES database was amended in order to restrict searches to a particular continent. In line with this Protocol, ACCPUF contributed financially following the inclusion of its case-law and the opening up of the previously restricted web-site of the database.

V. ELECTORAL LAW

1. ESTABLISHMENT OF THE COUNCIL FOR DEMOCRATIC ELECTIONS

The year 2002 was marked by an important development within the Venice Commission concerning electoral matters.

On 8 November 2001 the Permanent Commission of the Parliamentary Assembly, acting on behalf of the Assembly, adopted resolution 1264 (2001), inviting the Venice Commission to[1]:

i. set up a working group, comprising representatives of the Parliamentary Assembly, the CLRAE and possibly other organisations with experience in the matter, with the aim of discussing electoral issues on a regular basis;

ii. devise a code of practice in electoral matters which might draw, inter alia, on the guidelines set out in the appendix to the explanatory memorandum of the report on which this resolution is based (Doc. 9267), on the understanding that this code should include rules both on the run-up to the election, the elections themselves and on the period immediately following the vote;

iii. as far as its resources allow, to compile a list of the underlying principles of European electoral systems by co-ordinating, standardising and developing current and planned surveys and activities. In the medium term, the data collected on European elections should be entered into a database, and analysed and disseminated by a specialised unit.

Following this resolution, the Council for Democratic Elections was founded on 7 March 2002. It consists of members of the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe. The ODIHR, the Parliamentary Assembly of OSCE, the European Commission, the European Parliament and, as of the 3rd meeting (16 October 2002), the ACEEEO (Association of Central and Eastern European Election Officials) were all invited to participate in its work as observers.

2. CODE OF GOOD PRACTICE IN ELECTORAL MATTERS

The Council for Democratic Elections first drafted a Code of Good Practice in Electoral Matters[2]. This text, which was adopted by the Venice Commission at its 51st and 52nd sessions, contains guidelines and an explanatory report offering details on the issue. It aims to define a European electoral heritage which should be respected when organising democratic elections. The document is divided into two parts. The first part deals with the principles of European electoral heritage, namely free, equal, universal, secret and direct elections at regular intervals. The second part relates to the conditions of implementation of these principles and in particular to the respect of fundamental rights such as freedom of expression, assembly and association, observation of elections and guarantees to be ensured with respect to funding and security.

The Code of Good Practice in Electoral Matters was forwarded to the Parliamentary Assembly which on 30 January 2003 adopted a recommendation to the Committee of Ministers to transform the Code of Good Practice in Electoral Matters into a European convention[3].

By setting fixed standards, the Code of Good Practice in Electoral Matters allows for evaluation of legislations and electoral practices on a sound basis. It will facilitate identification of necessary legislative reforms in the framework of a reinforced cooperation within the Council for Democratic Elections between the Venice Commission as the legislative assistance body on one hand and the Parliamentary Assembly and the Congress of Local and Regional Authorities as the elections observers on the other hand.

3. OTHER ACTIVITIES OF THE COUNCIL ON DEMOCRATIC ELECTIONS

On 30 January 2003, the Parliamentary Assembly adopted a resolution inviting the Venice Commission to:

i. to set the activities of the Council for Democratic Elections on a permanent footing and consider the Council one of its own bodies while maintaining its current form of mixed membership, as specified in Resolution 1264;

ii. to implement the aims of the Council for Democratic Elections, as set out in Resolution 1264, and, in particular, continue its activities with a view to:

a. setting up a database comprising, inter alia, the electoral legislation of Council of Europe member states;

b. formulating opinions, in co-ordination with the Assembly, on all general questions relating to electoral matters as well as opinions concerning possible improvements to legislation and practices in particular member states or applicant countries;

c. drafting, as soon as possible, a computerized questionnaire, setting out in a practical form the general principles of the Code of Good Practice in Electoral Matters, which would give the observer delegations a better overview of the electoral situation.[4]

The Venice Commission was also involved in work aimed at defining international standards in electoral matters in the framework of the OSCE/ODIHR.

Throughout the year 2002 the Council for Democratic Elections participated in various activities relating to electronic voting in order to define the legal standards

applicable to this new form of exercise of political rights. Such contribution could arise in the framework of the multidisciplinary ad hoc group of specialists on legal, operational and technical standards relating to the e-enabled voting.

4. FURTHER ACTIVITIES IN THE FIELD OF ELECTORAL LAW

Throughout the year 2002, the Venice Commission intensified its co-operation with a number of States in the field of electoral assistance. More information can be found in the chapter relating to country specific activities with respect to Armenia, Azerbaijan, Croatia and Moldova[5].

The most important aspect of this co-operation is the adoption of opinions on electoral legislation. In this respect the Venice Commission increased its co-operation with ODIHR and started a practice of joint opinions of the two institutions[6]. This will reinforce the weight of these opinions and prevent contradictions between both institutions which could be exploited politically.

In addition, the Venice Commission was represented at a workshop on electoral standards concerning access of handicapped persons to the electoral process which was held in Sigtuna (Sweden) on 14-17 September 2002, as well as at the 11th meeting of IACEEEO (Association of Central and Eastern European Election Officials), which adopted a draft convention on electoral matters.

VI. CO-OPERATION WITH THE ORGANS OF THE COUNCIL OF EUROPE, THE EUROPEAN UNION AND OTHER INTERNATIONAL ORGANISATIONS

1. COMMITTEE OF MINISTERS

Representatives from the Committee of Ministers participated in all the Commissions plenary sessions during 2002. The following Ambassadors attended the sessions during 2002:

Mr Pietro Ercole Ago, Permanent Representative of Italy, Mr Jean-Claude Joseph, Permanent Representative of Switzerland, Mr Rokas Bernotas, Permanent Representative of Lithuania, Mr Gilles Chouraqui, Permanent Representative of France, Mr Roland Wegener, Permanent Representative of Germany, Mr Gheorghe Magheru, Permanent Representative of Romania, Mr Mats Åberg, Permanent Representative of Sweden and Mr Krzysztof Kocel, Permanent Representative of Poland. They informed the Commission about the work of the Committee of Ministers and the programme of the respective chair of the Committee of Ministers.

Several subjects were discussed or points made including: the adoption of the new Statute of the Commission and its new status as an enlarged agreement, the possibility for the Commission to expand its activities to non-European countries, the role of the Commission in the process of democratic reforms in Central and Eastern Europe, institutional reforms within the Council of Europe, the accession of new member states to the Council of Europe, the reform of the European Court of Human Rights and the UN Resolution on co-operation with the Council of Europe.

2. PARLIAMENTARY ASSEMBLY

Co-operation between the Commission and the Parliamentary Assembly is traditionally particularly close. On 8 March 2002, before the start of the 50th Plenary Session, the Enlarged Bureau of the Commission met with the Presidential Bureau of the Assembly to discuss ways to further enhance co-operation. Both sides stressed their high appreciation of the excellent co-operation and confirmed their willingness to maintain and develop it further. The President of the Parliamentary Assembly, Mr Schieder, expressed his intention to personally attend the sessions of the Venice Commission as often as possible and was indeed present both at the 50th and 52nd Plenary Session. Mr Jurgens from the Legal Affairs Committee of the Assembly was present at the 50th, 51st and 53rd Plenary Sessions, Mr Piscitello from the same committee attended the 53rd Session.

The setting up of the Council on Democratic Elections as a tri-partite body of the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe was a further step to enhance co-operation.

A number of important activities of the Commission in 2002 were undertaken at the request of the Parliamentary Assembly. This concerns in particular:

- The opinion on possible groups to which the Framework Convention on National Minorities could be applied in Belgium;
- The work on the Constitutional Law on National Minorities in Croatia;
- The opinion on the amendments to the Constitution of Liechtenstein proposed by the Princely House of Liechtenstein;
- The opinion on the implementation of the judgments of the European Court of Human Rights.
- The Law on Political Parties of Ukraine.

President Schieder and Mr Jurgens regularly informed the Commission about the activities of the Assembly of interest to the Commission both of a legal and a political nature. This concerned inter alia the accession of Yugoslavia to Council of Europe, the fight against terrorism, the complete abolition of the death penalty, the International Criminal Tribunal and the execution of decisions of the European Court of Human Rights. The Commission was moreover informed about the follow-up given by the Assembly to Venice Commission texts. The most prominent examples were the Report on the preferential treatment by a state of its kin-minorities abroad adopted by the Commission in 2001 (CDL-INF (2001)19) and the Opinion on the application of the Framework Convention on National Minorities in Belgium[26].

3. CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

The revised Statute of the Commission explicitly recognises the possibility for the Congress to ask the Commission for opinions. The President of the Congress, Mr Llibert Cuatrecasas, attended the 50th Plenary Session of the Commission in March 2002. The President of the Chamber of Regions of the Congress, Mr Giovanni Di Stasi, attended the 53rd Plenary Session of the Commission in December 2002. They informed the Commission about the activities of the Congress of interest to the Commission, in particular the monitoring of local and regional autonomy in the Council of Europe member States by the Congress and the request to introduce references to local and regional autonomy into the future constitutional treaty of the European Union. They also addressed issues on which the Congress and the Commission had worked together such as the status of Gagauzia in Moldova and the Croatian law on local and regional elections.

The setting up of the Council on Democratic Elections as a tri-partite body of the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe was a further step to enhance co-operation.

4. REQUESTS FROM THE SECRETARY GENERAL OF THE COUNCIL OF EUROPE

The Secretary General of the Council of Europe asked the Commission to examine the following laws of the Republic of Moldova:

- Draft Law on Political Parties;
- Law on the Organisation and Conduct of Public Assemblies;
- Law on the Status of Parliamentarians;
- The Electoral Code.

5. EUROPEAN UNION

The Joint Programme between the European Commission and the Venice Commission entitled "Strengthening democracy and constitutional development in central and eastern Europe and CIS countries" continued throughout the year 2002. A large number of the activities described in this report are part of this Joint Programme. This includes exchanges of views to provide assistance to states in drafting and implementing constitutional provisions and legislation on democratic institutions, seminars with recently established constitutional courts, UniDem ("Universities for Democracy") seminars on topics of current constitutional importance and the publication of two special editions of the Bulletin on Constitutional Case-Law. The programme also facilitates the participation of experts from Central and Eastern Europe and CIS countries in exchanges of views on constitutional issues at plenary meetings of the Venice Commission and provides for the participation of a representative of the European Commission to identify activities and priorities jointly with the Venice Commission.

By letter dated 3 January 2002 the High Representative of the European Union, Mr Javier Solana, asked the President of the Commission, Mr La Pergola, for the Commissions assistance for the efforts of the EU to encourage a dialogue with a view to reaching a negotiated solution for the status of Montenegro within the Federal Republic of Yugoslavia. Following this request representatives of the Commission participated, in co-operation with the Council of the European Union and the European Commission, as legal advisers in the negotiation and drafting of the Proceeding Points for the Restructuring of Relations between Serbia and Montenegro and the Constitutional Charter of Serbia and Montenegro.

The President of the European Commission, Mr Romano Prodi, attended the 50th Plenary Session of the Commission in March 2002. He welcomed the excellent working relations, which the European Commission and the Venice Commission maintain in particular through the joint programme Strengthening democracy and constitutional development in Central and Eastern Europe. Mr Prodi highlighted the Venice Commissions important role in supporting the candidate countries of the European Union to develop their constitutional standards and harmonise them with those applied within European Union member countries.

Mr Prodi put special emphasis on the successful co-operation between the European Union and the Venice Commission on such complex issues as the negotiations in Rambouillet, the Constitutional Framework for Kosovo, assistance to François Leotard in the process of elaborating the constitutional arrangement in the Former Yugoslav Republic of Macedonia and assistance to Javier Solana concerning the constitutional reform in the Federal Republic of Yugoslavia. The President of the European Commission recalled the study on preferential treatment of national Minorities by their kin-state and praised the Venice Commission for its balanced and operational findings.

Mr Armando Toledano Laredo represented the European Commission at the Plenary Sessions of the Commission.

6. OSCE

The Commission has worked from the very beginning in close co-operation with OSCE and representatives of the Office of Democratic Institutions and Human Rights (ODIHR) of OSCE regularly participate in the sessions of the Commission as do, on an occasional basis, representatives from OSCE field missions with a particular interest in specific agenda items. This practice continued in 2002 and ODIHR Deputy Director Steve Wagenseil attended the 51st Plenary Session in July.

Beyond that, co-operation with ODIHR reached a new quality in 2002 in the area of electoral law (see supra, Chapter V). A number of opinions were adopted as joint opinions of the Commission and ODIHR. This will now be regular practice. ODIHR representatives also regularly attended as observers the meetings of the Council for Democratic Elections.

7. OFFICE OF THE HIGH REPRESENTATIVE (OHR) IN BOSNIA AND HERZEGOVINA

As in earlier years OHR representatives attended Commission sessions in which issues of particular interest to the High Representative were discussed. The opinions of the Commission on the draft Law on the State Agency for Protection and Information and on the Civil Service were provided at the request of OHR.

APPENDIX I

LIST OF MEMBERS OF THE EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW[27]

Mr Antonio LA PERGOLA (Italy), President, Judge at the Court of Justice of the European Communities
Substitute: Mr Sergio BARTOLE, Professor, University of Trieste

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Ms Hanna SUCHOCKA (Poland), Vice-President, Ambassador of Poland to the Holy See

Mr Kaarlo TUORI (Finland), Vice-President, Professor of Administrative law, University of Helsinki
Substitute: Mr Matti NIEMIVUO, Director at the Department of Legislation, Ministry of Justice

Mr François LUCHAIRE (Andorra), Vice-President, Honorary President of the University of Paris I, Former member of the French Constitutional Council, former President of the Constitutional Tribunal of Andorra

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Mr Giovanni GUALANDI (San Marino), Vice-President of the Council of Presidency of the Legal Institute of San Marino

Mr Giorgio MALINVERNI (Switzerland), Professor, University of Geneva
Substitute: Mr Heinrich KOLLER, Professor, Basel University

Mr Franz MATSCHER (Austria), Professor, University of Salzburg, Former judge at the European Court of Human Rights
Substitute: Mr Christoph GRABENWARTER[28], Professor of Public Law, University of Graz

Mr Ergun ÖZBUDUN (Turkey), Professor, University of Bilkent, Vice President of the Turkish Foundation for Democracy
Substitute: Mr Erdal ONAR[29], Associate Professor, Faculty of Law, Ankara University

Mr Jean-Claude SCHOLSEM (Belgium), Professor, Law Faculty, University of Liège

Mr Helmut STEINBERGER (Germany), former Director of the Max-Planck Institute, Professor Emeritus, University of Heidelberg
Substitute: Mr Georg NOLTE, Professor of Public Law, University of Göttingen

Mr Jan HELGESEN (Norway), Professor, University of Oslo

Mr Gerard BATLINER (Liechtenstein), Member, Academic Council of the Liechtenstein Institute
Substitute: Mr Wilfried HOOP[30], Lawyer, Aspen

Mr Ján KLUČKA (Slovakia), Judge, Constitutional Court
Substitute: Mr Peter KRESÁK, Professor, Member of the National Council of Slovakia

Mr Peter JAMBREK (Slovenia), Professor, Dean, Graduate School of Government and European Affairs, Former Minister of the Interior, Former President of the Constitutional Court, Former Judge at the European Court of Human Rights
Substitute: Mr Anton PERENIČ, Professor of Law, former Judge of the Constitutional Court

Mr Kestutis LAPINSKAS (Lithuania), Judge, Constitutional Court
Substitute: Ms ivile LIEKYTĖ[31], Director, Department of Legislation and Public Law, Ministry of Justice

Mr Cyril SVOBODA (Czech Republic), Deputy Prime Minister, Minister of Foreign Affairs
Substitute: Ms Eliska WAGNEROVA[32], Vice-Chairman, Constitutional Court

Mr Aivars ENDZINS (Latvia), President, Constitutional Court

Mr Alexandre DJEROV (Bulgaria), Advocate, Member of the National Assembly
Substitute: Mr Vassil GOTZEV, Judge, Constitutional Court

Ms Carmen IGLESIAS CAÑO (Spain), Director of the Centre for Constitutional Studies
Substitute: Mr Ángel J. SÁNCHEZ NAVARRO, Sub Director of the Centro de Estudios Politicos y Constitucionales

Mr Rune LAVIN (Sweden), Justice, Supreme Administrative Court
Substitute: Mr Hans Heinrich VOGEL, Professor in Public Law, University of Lund

Mr Stanko NICK (Croatia), Ambassador of Croatia in Hungary
Substitute: Mrs Marija SALEČIĆ, Legal Adviser, Constitutional Court

Mr Tito BELICANEC, ("The former Yugoslav Republic of Macedonia"), Professor, Faculty of Law, University of Skopje
Substitute: Mr Igor SPIROVSKI, Secretary General, Constitutional Court

Mr Luan OMARI (Albania), Vice President, Academy of Science of Albania

Mr Hjörtur TORFASON (Iceland), Former Judge, Supreme Court of Iceland
Substitute: Mr Magnus K.HANNESSON, Legal Counsellor, Ministry of Foreign Affairs

Mr László SÓLYOM (Hungary), Former President of the Constitutional Court
Substitute: Mr Peter PACZOLAY, Deputy Head, Office of the President of the Republic of Hungary

Mr Vital MOREIRA (Portugal), Professor, Law Faculty, University of Coimbra
Ms Maria de Jesus SERRA LOPES, State Counsellor, Former Chairman of the Bar Association

Mr Pieter VAN DIJK (The Netherlands), State Councillor, Former Judge at the European Court of Human Rights
Substitute: Mr Erik LUKÁCS, Former Legal Adviser, Ministry of Justice

Mr Avtandil DEMETRASHVILI (Georgia), Member, Council of Justice
Substitute: Mr Gela BEZHUASHVILI, Deputy Minister of Defence

Mr Peeter ROOSMA (Estonia), Adviser, Supreme Court of Estonia

Mr Jeffrey JOWELL (United Kingdom), Professor of Public Law, University College London

Ms Suzanna STANIK (Ukraine), Permanent Representative of Ukraine to the Council of Europe
Substitute: Mr Volodymyr VASSYLENKO, Ambassador of Ukraine to the United Kingdom

Mr Khanlar I. HAJIYEV (Azerbaijan), President, Constitutional Court

Mr Gaguik HAROUTUNIAN (Armenia), President, Constitutional Court
Mr Armen HAROUTUNIAN, Counsellor, Constitutional Court, Rector, State Administration Academy

Mr Henrik ZAHLE (Denmark), Professor, Institute of Legal Science, University of Copenhagen
Substitute: Mr John LUNDUM, High Court Judge

Ms Maria POSTOICO (Moldova), Chairperson of the Committee on Legal Affairs, appointments and immunities, Parliament of Moldova
Substitute: Mr Vasile RUSU, Deputy Chairperson of the Committee on Legal Affairs, appointments and immunities, Parliament of Moldova

Mr Marat V. BAGLAY (Russian Federation), President, Constitutional Court
Substitute: Mr Vladimir A. TOUMANOV, former President of the Constitutional Court

Mr Cázim SADIKOVIĆ (Bosnia and Herzegovina), Dean, Faculty of Law, University of Sarajevo

Mr Dimitris CONSTAS[33] (Greece), Professor, Panteio University, Director of the Institute of International Relations
Substitute: Ms Fani DASKALOPOULOU-LIVADA, Assistant Legal Adviser, Legal Department, Ministry of Foreign Affairs

Mr Olivier DUTHEILLET DE LAMOTHE[34] (France), State Counsellor, Member of the Constitutional Council
Substitute: Mr Alain LANCELOT[35], Former member of the Constitutional Council

Ms Lydie ERR[36] (Luxembourg), Member of Parliament

Ms Finola FLANAGAN[37] (Ireland), Director General, Senior Legal Adviser, Head of the Office of the Attorney General
Substitute: Mr James HAMILTON, Director of Public Prosecutions

Mr Panayiotis KALLIS[38] (Cyprus), Supreme Court Judge
Substitute: Mr Petros CLERIDES[39], Deputy Attorney General of the Republic

Ms Rodica Mihaela STĂNOIU[40] (Romania), Minister of Justice
Substitute: Mr Alexandru FARCAS, State Secretary for European Integration and International Relations, Ministry of Interior)
Substitute: Mr Bogdan AURESCU[41], Director General, Ministry of Foreign Affairs

Mr Ugo MIFSUD BONNICI[42] (Malta), President Emeritus

ASSOCIATE MEMBERS

Mr Anton MATOUSEVICH (Belarus), Deputy Rector, Commercial University of Management

Mr Vojin DIMITRIJEVIĆ, (Federal Republic of Yugoslavia), Director, Belgrade Human Rights Centre
Substitute: Mr Vladimir DJERIĆ, Advisor to the Minister of Foreign Affairs

OBSERVERS

Mr Hector MASNATTA (Argentina), Ambassador, Executive Vice-Chairman, Centre for constitutional and social studies

Mr Yves de MONTIGNY, Senior General Counsel, Manager Public Law Group, Department of Justice
Substitute: Mr Gérald BEAUDOIN (Canada), Professor, University of Ottawa, Senator

Mr Vincenzo BUONOMO (Holy See), Professor of International Law, Latran University

Mr Amnon RUBINSTEIN (Israel), Dean, Interdisciplinary Centre

Mr Naoki ONISHI (Japan), Consul, Consulate General of Japan, Strasbourg

Mr Oljas SOULEIMENOV (Kazakhstan), Ambassador of Kazakhstan in Rome

Mr Yang-Chun PARK (Republic of Korea), Ambassador of the Republic of Korea to Luxembourg, Belgium and the European Union

Mr Serikul KOSAKOV (Kyrgyzstan), Head of Teaching Department, Department of Law, Kyrgyz State National University

Mr Porfirio MUÑOZ-LEDO (Mexico), Ambassador Extraordinary and Plenipotentiary, Permanent Observer to the Council of Europe

Mr Jed RUBENFELD (United States of America), Professor, Yale Law School

Mr Miguel Angel SEMINO (Uruguay), Ambassador of Uruguay in Paris

SECRETARIAT

Mr Gianni BUQUICCHIO
Mr Thomas MARKERT
Mrs Simona GRANATA-MENGHINI
Mr Pierre GARRONE
Mr Rudolf DÜRR
Mr Sergueï KOUZNETSOV
Mrs Helen MOORE
Ms Caroline MARTIN
Ms Tatiana MYCHELOVA
Ms Dubravka BOJIC-BULTRINI
Mr Gaël MARTIN-MICALLEF
Ms Clementina BARBARO
Ms Helen MONKS
Ms Brigitte AUBRY
Ms Marian JORDAN
Mrs Ermioni KEFALLONITOU-STAVROS
Mrs Brigitte RALL

Ms Jo FARMER
Mrs Marie-Louise WIGISHOFF
Ms Caroline GODARD

APPENDIX II

OFFICES AND COMPOSITION OF THE SUB-COMMISSIONS

- President: Mr La Pergola
- Vice-Presidents: Mr Luchaire, Ms Suchocka, Mr Tuori
- Bureau: Mr Baglay, Mr Jowell, Mr Lapinskas, Mr Lavin, Mr Steinberger
- Chairmen of Sub-Commissions: Mr Batliner, Mr Helgesen, Mr Jambrek, Mr Jowell, Mr Malinverni, Mr Matscher, Mr Moreira, Mr Omari, Mr Özbudun, Mr Scholsem, Mr Solyom, Mr Steinberger, Mr van Dijk
- Constitutional Justice: Chairman: Mr Sólyom - members: Mr Bartole, Mr Batliner, Mr Demetrashvili, Mr Djerov, Mr Dutheillet de Lamothe, Mr Endzins, Mr Gotzev, Mr Hamilton, Mr Haroutunian, Mr La Pergola, Mr Lapinskas, Mr Lavin, Mr Malinverni, Mr Moreira, Mr Roosma, Mr Scholsem, Mr Spirovski, Ms Stanik, Mr Steinberger, Ms Suchocka, Mr Torfason, Mr Vogel, Mr Zahle - observers: Canada, Israel
- Federal State and Regional State: Chairman: Mr Malinverni - members: Mr Aurescu, Mr Bartole, Mr Belicanec, Mr Hajiyev, Ms Iglesias, Mr Jowell, Mr La Pergola, Mr Matscher, Mr Sadiković, Mr Scholsem, Ms Serra Lopes, Mr Steinberger, Mr Tuori observers: Canada, USA
- International Law: Chairman: Mr Steinberger - members: Mr Aurescu, Mr Djerov, Mr Farcas, Mr Gotzev, Mr Helgesen, Mr Klučka, Mr La Pergola, Mr Luchaire, Mr Lukács, Mr Malinverni, Mr Matscher, Mr Moreira, Mr Nick
- Protection of Minorities: Chairman: Mr Matscher - members: Mr Aurescu, Mr Bartole, Mr Belicanec, Mr Constas, Mr Farcas, Mr Gualandi, Mr Hamilton, Mr Helgesen, Mr Klučka, Mr Malinverni, Mr Nick, Mr Özbudun, Mr Scholsem, Mr Sólyom, Mr Torfason, Mr Tuori, Mr van Dijk observers: Canada
- Constitutional Reform: Chairman: Mr Batliner - members: Mr Bartole, Mr Djerov, Mr Dutheillet de Lamothe, Mr Endzins, Mr Farcas, Mr Gotzev, Mr Hajiyev, Ms Iglesias, Mr La Pergola, Mr Lapinskas, Mr Luchaire, Mr Lukács, Mr Malinverni, Mr Moreira, Mr Nolte, Mr Omari, Mr Özbudun, Mr Roosma, Mr Scholsem, Ms Serra Lopes, Mr Spirovski, Mr Steinberger, Ms Suchocka, Mr Torfason, Mr Tuori observers: Israel
- Democratic Institutions: Chairman: Mr Scholsem - members: Mr Belicanec, Mr Dutheillet de Lamothe, Mr Endzins, Mr Farcas, Mr Hamilton, Mr Haroutunian, Ms Iglesias, Mr Jambrek, Mr Jowell, Mr Klučka, Mr Lapinskas, Mr Lavin, Mr Luchaire, Mr Malinverni, Mr Moreira, Mr Omari, Mr Özbudun, Mr Roosma, Ms Serra Lopes, Mr Svoboda, Mr Tuori, Mr Vogel
- UniDem Governing Board: Chairman: Mr Jowell - members: Mr Batliner, Mr Constas, Mr Djerov, Mr Gualandi, Mr Helgesen, Mr Jambrek, Mr La Pergola, Mr Lavin, Mr Moreira, Mr Özbudun, Ms Suchocka, Mr Svoboda, Mr van Dijk, Mr Vogel observers: Holy See, ODIHR

  Co-opted members: Prof. Evans (Johns Hopkins University, Bologna), Prof. von der Gablentz (College of Europe, Bruges), Prof. Masterson (European University Institute, Florence), Mr Koller (Federal Office of Justice, Berne)
- South Africa: Chairman: Mr Helgesen - members: Mr Hamilton, Mr Jambrek, Mr Jowell, Mr Lavin, Mr La Pergola, Mr Torfason, Mr Tuori, Mr Vogel - observers: Canada, USA
- Mediterranean Basin: Chairman: Mr Omari - members: Mr Batliner, Mr Constas, Mr Djerov, Mr Dutheillet de Lamothe, Mr Gotzev, Ms Iglesias, Mr La Pergola, Mr Nick, Mr Özbudun observers: Israel
- Administrative and Budgetary Questions: Chairman: Mr van Dijk - members: Mr Malinverni, Mr Matscher, Mr Tuori
- South-East Europe: Chairman: Mr Jambrek members: Mr Aurescu, Mr Belicanec, Mr Constas, Mr Djerov, Mr Farcas, Mr Gotzev, Mr Luchaire, Mr Lukács, Mr Moreira, Mr Nick, Mr Omari, Mr Sadiković, Mr Spirovski, Mr Torfason
- Emergency powers: Chairman: Mr Özbudun
- Latin America: Chairman: Mr Moreira

APPENDIX III

MEETINGS OF THE EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW IN 2002[43]

1. PLENARY MEETINGS

50th Meeting	8-9 March
51st Meeting	5-6 July
52nd Meeting	18-19 October
53rd Meeting	13-14 December

Bureau

31st Meeting - Meeting enlarged to include the Chairmen of Sub-Commissions
- 7 March
Meeting of the Enlarged Bureau with the Presidential Bureau of the Parliamentary Assembly
- 8 March
32nd Meeting - Meeting enlarged to include the Chairmen of Sub-Commissions
- 4 July
33rd Meeting - Meeting enlarged to include the Chairmen of Sub-Commissions
- 17 October
34th Meeting - Meeting enlarged to include the Chairmen of Sub-Commissions
- 12 December

2. SUB-COMMISSIONS

Constitutional Justice

Meeting of Working Group on the systematic thesaurus
30 May (Cyprus)
19th meeting - Meeting with Liaison officers from Constitutional Courts
31 May (Cyprus)

Meetings with the Association of Constitutional Courts using the French Language (ACCPUF)

Conference of Heads of ACCPUF
25-27 January (Djibouti)
2nd Seminar of National Correspondents ACCPUF
23-24 June (Paris)

Democratic Institutions

14th Meeting 4 July
15th Meeting 17 October
16th Meeting 12 December

Federal and Regional State

16th Meeting 4 July

International Law

Meeting of Working Group on the Execution of the decisions of the ECHR
29 November (Paris)
21st Meeting 12 December

Unidem Governing Board

34th Meeting 17 October

Administrative and Budgetary Questions

7 March
17 October

Council for Democratic Elections

7 March
3 July
16 October

3. MEETINGS OF WORKING GROUPS AND RAPPORTEURS

Armenia

Roundtable on most pertinent issues related to amendments to the Electoral Code
16-17 May (Yerevan)
Meeting on reforms in Armenia (possible measures pending adoption of revised Constitution)
11-12 July (Strasbourg)

Belgium

Possible groups to which the framework convention on national minorities could be applied in Belgium
18-19 January (Brussels)
Participation in a meeting of the Committee on legal affairs and human rights of the Parliamentary Assembly
17 May (Paris)
Participation in a meeting of the Committee on legal affairs and human rights of the Parliamentary Assembly
25 June (Strasbourg)

Bosnia and Herzegovina

Working Group on Protection of minorities in Bosnia and Herzegovina
1 March (Paris)

Process of the restructuring of the Judiciary in Bosnia and Herzegovina
22 March (Strasbourg)
15 April (Sarajevo)

Implementation of the Bosnia and Herzegovina Constitutional Court decision on the issue of constituent peoples
11-12 April (Strasbourg)

Relations between the Ombudsman Institutions in Bosnia and Herzegovina
5-6 April (Vilnius)
27 June (Paris)

Latvia
Seminar on the draft law on the judicial system
4 December (Riga)

Moldova
Draft law on the modification of the Constitution of the Republic of Moldova concerning the status of Gagaouzia
12-13 February (Chisinau)

Romania
Meeting of Working Group on the Revision of the Constitution of Romania
18-19 March (Bucharest)
1-2 October (Bucharest)

Ukraine
Meeting of the Working Group on the law on political parties in Ukraine
11-12 June (Kyiv)

Federal Republic of Yugoslavia
Meeting on restructuring of FRY
9-17 January (Belgrade)
Meeting on the future of the FRY
30 January - 1 February (Belgrade)
27 February - 2 March (Belgrade)
12-14 March (Belgrade)
Discussions on the Constitutional Charter for Serbia and Montenegro
7 June (Brussels)
17 July (Belgrade)
29-31 July (Belgrade and Podgorica)
22-23 October (Belgrade)

4. CONSTITUTIONAL JUSTICE SEMINARS

Nordic-Baltic Conference on interpretation and direct application of the Constitution in co-operation with the Constitutional Court of Lithuania
15-16 March (Vilnius)

Conference on Effective remedies for the protection of Human Rights: the role of the Constitutional Court in co-operation with the Constitutional Court of Bosnia and Herzegovina
23-24 May (Sarajevo)

Conference on constitutional control: basic problems of practice organisation and legal proceedings
3-4 June (Batumi, Georgia)

Seminar on the role of the Constitutional Court in society in co-operation with the Constitutional Court of Moldova
17-18 June (Chisinau)

Scientific Conference on 10 Years of the Estonian Constitution
26-27 September (Tallinn)

Seminar on International experience and perspectives of human rights protection before the Constitutional Court
4-5 October (Yerevan)

Seminar on Topical issues of constitutional review: experience and development of the first decade
1-2 November (Tartu, Estonia)

Seminar on the protection of fundamental rights by the Constitutional Court by means of individual complaint
8-9 November (Baku)

Conference of Secretaries General of European Constitutional Courts
14-15 November (Madrid)

Conference on Human Rights Protection Systems
21-22 November (Bishkek, Kyrgyzstan)

Conference on Constitutional Court, the upholder of the observants of the Constitution on the occasion of the 10th Anniversary of the Constitutional Court of Albania
25 November (Tirana)

Seminar on the relations between the Constitutional Court and the Parliament in co-operation with the Romanian Foundation for Democracy through Law
29-30 November (Bucharest)

5. UNIDEM AND OTHER SEMINARS AND CONFERENCES

Seminar on the legal frameworks to facilitate the settlement of ethno-political conflicts in Europe in co-operation with the Constitutional Court of Azerbaijan
11-12 January (Baku)

UniDem Seminar on « The re-invention of the State - Political Democracy and Legal Order in Central and Eastern Europe »
4-5 April (Paris)

Colloquy on Protection of national minorities by their kin-State
7-8 June (Athens)

UniDem Seminar on « The resolution of conflicts between the central State and entities with legislative power »

14-15 June (Rome)

UniDem Seminar on « Constitutional Courts and European integration»
19-21 September (Kosice)

6. UNIDEM CAMPUS TRIESTE

The Principle of non-discrimination and the protection by the Public Administration of the rights of ethnic, religious and linguistic minorities
28 January-1 February (Trieste)

The application of European Law in domestic law
25-29 March (Trieste)

Efficiency of the public service and fundamental rights
27-31 May (Trieste)

Access to information: the case-law of the European Convention on Human Rights
15-19 July (Trieste)

Human Rights protection in Europe: the Council of Europe, the European Union, the OSCE and the United Nations systems
23-27 September (Trieste)

Standards of public life, including institutional means to avoid corruption
25-29 November (Trieste)

Meeting with National Co-ordinators
6 December (Strasbourg)

7. PARTICIPATION IN OTHER SEMINARS AND CONFERENCES

Participation in a seminar on the status of minorities in Croatia organised by the Helsinki Committee on Human Rights and the National Council of Minorities of Croatia
22 February (Zagreb)

Participation in a meeting on co-operation with ODIHR
15 March (Warsaw)

Participation in a Legal Workshop on Legal Issues and practices in the field of Democratic control of Armed Forces and Security Sector: National and International perspectives organised by the Geneva Centre for the Democratic Control of Armed Forces (DCAF)
5-6 April (Geneva)

Participation in a Seminar on e-voting and parliamentary elections
10-11 May (Florence)

Participation in the 10th Annual International Judicial Conference on Courts of Ultimate Appeal: Issues of Judicial Independence organised by the Center for Democracy
22-24 May (Strasbourg)

Participation in the Global Workshop on Universal Electoral Rights of people with disabilities
14-17 September (Sigtuna, Sweden)

Participation in a Seminar on the importance of the creation of an Ombudsman institution in Azerbaijan and its role in the general mechanism of democracy in Azerbaijan
16-17 September (Baku)

Participation in OSCE meeting on the implementation of commitments on human dimension
17-18 September (Warsaw)

Participation in ACEEO Annual conference on International Election standards in the legislation and practical activities of the countries of Europe
26-28 September (Moscow)

Participation in an International Conference on Separation of Powers
27-28 September (Belgrade)

Participation in the celebrations of the 10th anniversary of the Constitutional Court of Romania
3-5 October (Bucharest)

Participation in the Conference of Presidents of Statute Commission of Italian Regions, organised by the CLRAE
12 November (Strasbourg)

Participation in a Round Table on the revision of the electoral code of Azerbaijan
13-14 November (Baku) preparation
16-17 November (Baku) Round Table

Participation in a Colloquy on the impact of the case-law of the European Court of Human Rights on the activity of Constitutional Courts of Central and Eastern Europe organised by the Research Group on law and transition in Eastern Europe of the University of Clermont Ferrand (GRDT)
15-16 November (Clermont Ferrand)

Participation in a meeting with representatives of ODIHR concerning electoral matters
19 November (Warsaw)

Participation in a Round Table on appeals in electoral matters
22-23 November (Tirana)

Participation in a Course The active role of a judge in interpreting the procedural provisions from the viewpoint of the constitutional standards of a due process of law
22 November (Tirana)

Participation in the Workshop on Constitutional Reform organised by the Bulgarian Ministry of Justice in co-operation with ABA-CEELI
2 December (Sofia)

A P P E N D I X IV

LIST OF PUBLICATIONS
OF THE EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW[44]

- **SERIES** **SCIENCE AND TECHNIQUE OF DEMOCRACY**

No. 1 Meeting with the presidents of constitutional courts and other equivalent bodies[45] (1993)

No. 2 Models of constitutional jurisdiction*[46]
by Helmut Steinberger (1993)

No. 3 Constitution making as an instrument of democratic transition (1993)

No. 4 Transition to a new model of economy and its constitutional reflections (1993)

No. 5 The relationship between international and domestic law (1993)

No. 6 The relationship between international and domestic law*
by Constantin Economides (1993)

No. 7 Rule of law and transition to a market economy (1994)

No. 8 Constitutional aspects of the transition to a market economy (1994)

No. 9 The Protection of Minorities (1994)

No. 10 The role of the constitutional court in the consolidation of the rule of law (1994)

No. 11 The modern concept of confederation (1995)

No. 12 Emergency powers*
by Ergun Özbudun and Mehmet Turhan (1995)

No. 13 Implementation of constitutional provisions regarding mass media in a pluralist democracy (1995)

No. 14 Constitutional justice and democracy by referendum (1996)

No. 15 The protection of fundamental rights by the Constitutional Court[47] (1996)

No. 16 Local self-government, territorial integrity and protection of minorities (1997)

No. 17 Human Rights and the functioning of the democratic institutions in emergency situations (1997)

No. 18 The constitutional heritage of Europe (1997)

No. 19 Federal and Regional States* (1997)

No. 20 The composition of Constitutional Courts (1997)

No. 21 Citizenship and state succession (1998)

No. 22 The transformation of the Nation-State in Europe at the dawn of the 21st century (1998)

No. 23 Consequences of state succession for nationality (1998)

No. 24 Law and foreign policy (1998)

No. 25 New trends in electoral law in a pan-European context (1999)

No. 26 The principle of respect for human dignity in European case-law (1999)

No. 27 Federal and Regional States in the perspective of European integration (1999)

No. 28 The right to a fair trial (2000)

No. 29 Societies in conflict: the contribution of law and democracy to conflict resolution (2000)

No. 30 European Integration and Constitutional Law (2001)

No. 31 Constitutional implications of accession to the European Union (2002)

No. 32 The protection of national minorities by their kin-State (2002)

- **OTHER PUBLICATIONS**

Bulletin on Constitutional Case-Law 1993 2002 (three issues per year)

Special Bulletins -

- Description of Courts (1999)*
- Basic texts - extracts from Constitutions and laws on Constitutional Courts - issues No1 2 (1996), issues No3-4 (1997), issue No5 (1998), issue No6 (2001)
- Leading cases of the European Court of Human Rights (1998)*
- Freedom of religion and beliefs (1999)
- Leading cases - Czech Republic, Denmark, Japan, Norway, Poland, Slovenia, Switzerland, Ukraine (2002)

Annual Reports - 1993 - 2002

Brochures -

- 10th anniversary of the Venice Commission (2001)*
- Revised Statute of the European Commission for Democracy through Law (2002)
- The Venice Commission (2002)

APPENDIX V

LIST OF DOCUMENTS ADOPTED IN 2002

CDL-AD (2002) 1 Opinion on possible groups of persons to which the Framework Convention for the protection of national minorities could be applied in Belgium, adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002)

CDL-AD (2002) 2 Opinion on the resolution on the principles of the state policy of Ukraine in the sphere of Human Rights adopted by the Verkhovna Rada of Ukraine on 17 June 1999, adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002)

CDL-AD (2002) 3 Consolidated opinion on the law on the election of members of the representative bodies of local and regional self-government units of Croatia adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002)

CDL-AD (2002) 4 Opinion on the draft law on civil service in governmental institutions of Bosnia and Herzegovina, adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002)

CDL-AD (2002) 5 Opinion on the draft law on the Constitutional Court of the Republic of Azerbaijan, adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002)

CDL-AD (2002) 7 Opinion on the draft amendments and additions to the electoral code of the Republic of Armenia based on comments by Mr Bernard Owen and Mr Tom Mackie

CDL-AD (2002) 8 Opinion on the status and rank of the Ombudsman Institution in the Federation of Bosnia and Herzegovina based on comments by Ms Maria de Jesus Serra Lopes and Mr Hans-Heinrich Vogel

CDL-AD (2002) 9 Opinion on the unified election code of Georgia, based on comments by Mr Hjörtur Torfason, Mr Florian Grotz and Mr Richard Rose

CDL-AD (2002) 10 Opinion on certain issues related to the Ombudsman Institutions in Bosnia and Herzegovina and on the interpretation of certain commitments undertaken by Bosnia and Herzegovina upon accession to the Council of Europe, adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

CDL-AD (2002) 11 Opinion on the draft proposal for rules of procedure of the Assembly of the Republic of Macedonia, adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

CDL-AD (2002) 12 Opinion on the draft revision of the Romania Constitution, adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July

2002)

CDL-AD (2002) 13 Guidelines on Elections, adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

CDL-AD (2002) 14 Opinions on the draft law on modification and amendment to the Constitution of the Republic of Moldova, endorsed by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

CDL-AD (2002) 15 Opinion on the draft law on amendments to the judicial system act of Bulgaria, adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

CDL-AD (2002) 16 Opinion on the draft law on the Constitutional Court and corresponding amendments of the Constitution of the Republic of Moldova, adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

CDL-AD (2002) 17 Opinion on the Ukrainian legislation on political parties, adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

CDL-AD (2002) 18 Opinion on the draft law of Luxembourg on freedom of expression in the media, endorsed by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

CDL-AD (2002) 19 Opinion on the draft law of Luxembourg on the protection of persons in respect of the processing of personal data, endorsed by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

CDL-AD (2002) 20 Opinion on the law on modification and addition in the Constitution of the Republic of Moldova in particular concerning the status of Gagauzia, adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002)

CDL-AD (2002) 21 Supplementary opinion on the revision of the Constitution of Romania, adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)

CDL-AD (2002) 22 Opinion on the draft law N° 4832 on the setting up of an Ombudsman institution in Luxembourg, adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)

CDL-AD (2002) 23 Code of good practice in electoral matters, adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)

CDL-AD (2002) 24 Opinion on the implementation of decision U5/98 (Constituent peoples) of the Constitutional Court of Bosnia and Herzegovina by the amendments to the Constitution of the Republika Srpska, adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)

CDL-AD (2002) 25 Opinion on the law on the status of parliamentarians of the Republic of Moldova, endorsed by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)

CDL-AD (2002) 26 Opinion on the draft law on judicial power and corresponding constitutional amendments of Latvia, based on comments by Mr Rune Lavin, Ms Hanna Suchocka and Mr Hjörtur Torfason

CDL-AD (2002) 27 Opinion on the law on assemblies of the Republic of Moldova, endorsed by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002);

CDL-AD (2002) 28 Opinion on the draft law on political parties and socio-political organisations of the Republic of Moldova, endorsed by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)

CDL-AD (2002) 29 Joint assessment of the amendments to the electoral code of the Republic of Armenia adopted in July 2002, adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)

CDL-AD (2002) 30 Opinion on the draft constitutional law on the rights of national minorities in Croatia, adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002)

CDL-AD (2002) 32 Opinion on the amendments to the Constitution of Liechtenstein proposed by the Princely house of Liechtenstein, adopted by the Commission at its 53rd Plenary Session (Venice, 13-14 December 2002);

CDL-AD (2002) 33 Opinion on the draft amendments to the Constitution of Kyrgyzstan, adopted by the Commission at its 53rd Plenary Session (Venice, 13-14 December 2002);

CDL-AD (2002) 34 Opinion on the implementation of the judgments of the European Court of Human Rights, adopted by the Commission at its 53rd Plenary Session (Venice, 13-14 December 2002);

CDL-AD (2002) 35 Joint Assessment of the revised draft election code of the Republic of Azerbaijan of 28 November 2002, endorsed by the Commission at its 53rd Plenary Session (Venice, 13-14 December 2002);

CDL-AD (2002) 36 Revised Rules of Procedure, adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002) as amended at its 53rd Plenary Session (Venice, 13-14 December 2002);

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[1] *The text of the revised Statute of the Commission is available on the web site of the Commission: http://venice.coe.int/site/main/statute-e.htm*

[2] *At present 44 states. Cf. the list of members which appears in Appendix I.*

[3] *As of 31.12.2002 there are two associate members: Belarus and the Federal Republic of Yugoslavia.*

[4] As of 31.12.2002 the following states enjoyed observer status with the Commission: Argentina, Canada, Holy See, Israel, Japan, Kazakhstan, Republic of Korea, Kyrgyzstan, Mexico, United States, Uruguay.

[5] Cf. the chapter on constitutional justice, infra, at IV.

[6] The activities of the Council are described in the chapter on electoral law, infra, at V.

[7] The following opinions concerning Armenia were adopted by the Commission during 2002:

- Opinion on the draft amendments and additions to the electoral code of the Republic of Armenia based on comments by Mr Bernard Owen and Mr Tom Mackie (CDL-AD (2002) 7) ;

- Joint assessment of the amendments to the electoral code of the Republic of Armenia adopted in July 2002, (CDL-AD (2002) 29), adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002).

[8] See the 2001 Annual Report.

[9] The following opinions concerning Azerbaijan were adopted by the Commission during 2002:

- Opinion on the draft law on the Constitutional Court of the Republic of Azerbaijan, (CDL-AD (2002) 5), adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002);

- Joint Assessment of the revised draft election code of the Republic of Azerbaijan of 28 November 2002 , (CDL-AD (2002) 35), endorsed by the Commission at its 53rd Plenary Session (Venice, 13-14 December 2002).

[10] The following opinion concerning Belgium was adopted by the Commission during 2002:

- Opinion on possible groups of persons to which the Framework Convention for the protection of national minorities could be applied in Belgium, (CDL-AD (2002) 1), adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002).

[11] The following opinions concerning Bosnia and Herzegovina were adopted by the Commission during 2002:

- Opinion on the draft law on civil service in governmental institutions of Bosnia and Herzegovina, (CDL-AD (2002) 4), adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002);

- Opinion on the status and rank of the Ombudsman Institution in the Federation of Bosnia and Herzegovina based on comments by Ms Maria de Jesus Serra Lopes and Mr Hans-Heinrich Vogel (CDL-AD (2002) 8);

- Opinion on certain issues related to the Ombudsman Institutions in Bosnia and Herzegovina and on the interpretation of certain commitments undertaken by Bosnia and Herzegovina upon accession to the Council of Europe, (CDL-AD (2002) 10), adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002);

- Opinion on the implementation of decision U5/98 (Constituent peoples) of the Constitutional Court of Bosnia and Herzegovina by the amendments to the Constitution of the Republika Srpska, (CDL-AD (2002) 24), adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002).

[12] In 2001, the Commission already adopted an opinion on the implementation of this decision (CDL-INF (2001) 6) and took part in a Task Force for its implementation, cf. Annual Report for 2001.

[13] The following opinion concerning Bulgaria was adopted by the Commission during 2002:

- Opinion on the draft law on amendments to the judicial system act of Bulgaria, (CDL-AD (2002) 15), adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002).

[14] The following opinions concerning Croatia were adopted by the Commission during 2002:

- Consolidated opinion on the law on the election of members of the representative bodies of local and regional self-government units of Croatia, (CDL-AD (2002) 3), adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002);

- Opinion on the draft constitutional law on the rights of national minorities in Croatia, (CDL-AD (2002) 31), adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002).

[15] Cf. the Annual Reports for the respective years.

[16] The following opinion concerning Georgia was adopted by the Commission during 2002 :

- Opinion on the unified election code of Georgia, based on comments by Mr Hjörtur Torfason, Mr Florian Grotz and Mr Richard Rose (CDL-AD (2002) 9).

[17] The following opinion concerning Kyrgyzstan was adopted by the Commission during 2002:

- Opinion on the draft amendments to the Constitution of Kyrgyzstan, (CDL-AD (2002) 33), adopted by the Commission at its 53rd Plenary Session (Venice, 13-14 December 2002).

[18] The following opinion concerning Latvia was adopted by the Commission during 2002:

- Opinion on the draft law on judicial power and corresponding constitutional amendments of Latvia, based on comments by Mr Rune Lavin, Ms Hanna Suchocka and Mr Hjörtur Torfason (CDL-AD (2002) 26).

[19] The following opinion concerning Liechtenstein was adopted by the Commission during 2002:

- Opinion on the amendments to the Constitution of Liechtenstein proposed by the Princely house of Liechtenstein, (CDL-AD (2002) 32), adopted by the Commission at its 53rd Plenary Session (Venice, 13-14 December 2002).

[20] The following opinions concerning Luxembourg were adopted by the Commission during 2002:

- Opinion on the draft law of Luxembourg on freedom of expression in the media, (CDL-AD (2002) 18), endorsed by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002);

- Opinion on the draft law of Luxembourg on the protection of persons in respect of the processing of personal data, (CDL-AD (2002) 19), endorsed by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002);

- Opinion on the draft law N° 4832 on the setting up of an Ombudsman institution in Luxembourg, (CDL-AD (2002) 22), adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002).

[21] The following opinions concerning Moldova were adopted by the Commission during 2002:

- Opinion on the draft law on modification and amendment to the Constitution of the Republic of Moldova, (CDL-AD (2002) 14), endorsed by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002);

- Opinion on the draft law on the Constitutional Court and corresponding amendments of the Constitution of the Republic of Moldova, (CDL-AD (2002) 16), adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002);

- Opinion on the law on modification and addition in the Constitution of the Republic of Moldova in particular concerning the status of Gagauzia, (CDL-AD (2002) 20), adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002);

- Opinion on the law on the status of parliamentarians of the Republic of Moldova, (CDL-AD (2002) 25), endorsed by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002);

- Opinion on the law on assemblies of the Republic of Moldova, (CDL-AD (2002) 27), endorsed by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002);

- Opinion on the draft law on political parties and socio-political organisations of the Republic of Moldova, (CDL-AD (2002) 28), endorsed by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002).

[22] The following opinions concerning Romania were adopted by the Commission during 2002:

- Opinion on the draft revision of the Romania Constitution, (CDL-AD (2002) 12), adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002);

- Supplementary opinion on the revision of the Constitution of Romania, (CDL-AD (2002) 21), adopted by the Commission at its 52nd Plenary Session (Venice, 18-19 October 2002).

[23] The following opinion concerning the former Yugoslav Republic of Macedonia was adopted by the Commission during 2002:

- Opinion on the draft proposal for rules of procedure of the Assembly of the Republic of Macedonia, (CDL-AD (2002) 11), adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002).

[24] Cf. .the Annual Report for 2001.

[25] The following opinions concerning Ukraine were adopted by the Commission during 2002:

- Opinion on the resolution on the principles of the state policy of Ukraine in the sphere of Human Rights adopted by the Verkhovna Rada of Ukraine on 17 June 1999, (CDL-AD (2002) 2), adopted by the Commission at its 50th Plenary Session (Venice, 8-9 March 2002);

- Opinion on the Ukrainian legislation on political parties, (CDL-AD (2002) 17), adopted by the Commission at its 51st Plenary Session (Venice, 5-6 July 2002).

1 See Doc. 9267, Report of Political Affairs Committee, Rapporteur: Mr. Georges Clerfayt

2 CDL-AD (2002) 23.

3 Recommendation 1595 (2003).

4 Resolution 1320 (2003).

5 See supra Chapter II.

6 See documents CDL-AD (2002) 29, CDL (2002) 131, CDL-AD (2002) 35.

[26] Cf. supra, Chapter II, under Belgium.

[27] By order of seniority

[28] Replaced Ms Ingrid Siess-Scherz on 9May 2002.

[29] Appointed on 9 May 2002.

[30] Appointed on 9 May 2002.

[31] *Appointed on 26 April 2002.*

[32] *Replaced Ms Ivana Janu on 31 October 2002.*

[33] *Replaced Mr Constantin Economides on 9 May 2002.*

[34] *Replaced Mr Jacques Robert on 9 May 2002.*

[35] *Appointed on 9 May 2002.*

[36] *Replaced Mr Gérard Reuter on 9 May 2002.*

[37] *Replaced Mr James Hamilton on 9 May 2002.*

[38] *Replaced Mr Michael Triantafyllides on 9 May 2002.*

[39] *Appointed on 9 May 2002.*

[40] *Replaced Mr Valeriu Stoica on 23 May 2002.*

[41] *Appointed on 23 May 2002.*

[42] *Replaced Mr Joseph Said Pullicino on 29 October 2002.*

[43] *All meetings took place in Venice unless otherwise indicated.*

[44] *Also available in French*

[45] *Speeches in the original language*

[46] *Publications marked with * are also available in Russian*

[47] *An abridged version is also available in Russian.*