

**EUROPEAN COMMISSION
FOR DEMOCRACY THROUGH LAW**

(Venice Commission)

Annual report of activities 2006

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**STATEMENT BY MR UGO MIFSUD BONNICI,
VICE-PRESIDENT OF THE VENICE COMMISSION,
PRESENTING THE ANNUAL REPORT FOR 2006
TO THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE**

Madam President, Your Excellencies, Ladies and Gentlemen,

It is a great honour as well as a pleasure for me to be here today to present the Annual Report of Activities of our Commission to your Committee, on behalf of our President who is prevented, for health reasons, from coming here today. It will therefore be my privilege to present to you the annual overview of our activities and share with you some perspectives for the future.

I have accepted this task willingly, because for the work of our Commission, the dialogue with the statutory organs of the Council of Europe is of the utmost importance. Members of your Committee are present at all our sessions and are thus not only able to benefit from a first hand experience of our work but can and do inform us about the activities and orientations within the Council of Europe as a whole. This allows us to stay in tune with our mother organisation.

Jurists, such as those who are members of our Commission, have an important contribution to make to the realisation of the noble goals of the Council of Europe. Without political support and backing, however, the lawyers' work runs the risk of remaining futile. We are therefore very much

aware that one of the reasons for the success of our Commission is that we belong to this Organisation and have always been able to count on the support of its structures.

At the Commission's last session in March we had the privilege of having the President of the Committee of Ministers, Minister Stolfi, with us. In his address, he underlined the added value our Commission brings to the activities of the Council of Europe as well as our good co-operation with other Council of Europe bodies and international organisations.

To quote the President: "The credibility of the Commission combined with the capacity of the Committee of Ministers to persuade have greatly contributed to the flourishing of the fundamental values of the Council of Europe in the new member states."

The presence here today of a representative of Montenegro is a clear example of the value of such a concerted approach. The Parliamentary Assembly approved this country's membership in the Council of Europe prior to the adoption of the new Constitution only on the basis of the good co-operation we have established in the drafting of this text. This enabled your Committee

to invite this country to become a member of the Council of Europe at the same time as Serbia is assuming the chair, a happy coincidence to which you, Madam President, have contributed by your constant support for a rapid accession.

Madam President,

It will not be possible to enter into a full description of our multiple and varied activities during this and the last year, but I will try to highlight some major developments and to point out the main challenges that we will be facing in the near future.

You may have noticed that the introductory part of our Annual Report has as its heading “Working for Democratic Stability”. This reflects our conviction that we have a double task: On the one hand, we promote – and this is the classical task of the Council of Europe – the rights and freedoms set forth in the legal instruments of our Organisation and contribute towards the goal which would see all of Europe becoming an area of liberty, respect for human rights and the rule of law.

On the other hand, we have to be conscious of the fact that liberty is not absence of norms or anarchy, and that without stable and effective democratic institutions the citizens will not be able to fully realise their rights. Institutions need good, wise and provident laws.

An example that comes to mind in this respect is that of Ukraine. This is a country which has made great strides towards realising fully democratic

freedoms, in part thanks to the Council of Europe but mainly thanks to the democratic aspirations of its people.

The recent crisis has, however, shown that the state institutions are not working effectively and tend to block each other instead of working together. This was not a surprise for the Venice Commission. On numerous occasions we provided opinions on the constitutional situation in Ukraine and we identified in advance many of the shortcomings which are now apparent. Our hope is that it will be possible, once the political situation has calmed down, to carry out a constitutional reform based on consensus and a constructive approach towards institution-building. The Venice Commission would be more than happy to provide assistance in this task.

A quite different example is Bosnia and Herzegovina. The need for constitutional reform is universally acknowledged and the Venice Commission clearly identified the priority areas for reform. Despite our involvement and the best efforts of the international community, last year it proved impossible to find the necessary consensus on how to carry out that reform. We very much hope this will change in the not too distant future since, otherwise, this country runs the risk of falling even further behind. Once again, we remain available to provide any assistance considered useful.

However, if we look at the new democracies as a whole, it is less the executive and legislative

branches which give reason for concern than that of the judiciary. In general, it has proved far more difficult to create truly independent courts free from interference and the evil of corruption than to have a functioning government and parliament. This is probably today the biggest challenge for the Council of Europe in South-Eastern and eastern Europe and, as far as the Venice Commission is concerned, this issue is increasingly becoming a main focus of our activities.

In the Commission's opinion on the new Constitution of Serbia we expressed reservations with respect to provisions which would give the parliament excessive influence over the judiciary.

This is also the most hotly debated issue in our current co-operation with the Montenegrin authorities on the new Constitution and it is no coincidence that it is the subject of a main commitment of Montenegro to the Council of Europe.

Recently we voiced serious concerns with respect to a Georgian law on disciplinary proceedings against judges and the Georgian authorities seem receptive to our arguments. Georgia also recently amended, following our encouragement, constitutional rules on judicial appointments. In Armenia, the constitutional reform prepared together with our Commission will now have to be reflected in the legislation on the judiciary and your Ago Group is following this process very closely.

It would be naïve to explain away these problems in the judicial field simply by laying them at the

feet of supposedly power hungry politicians wishing to have pliable judges under their control. There are many objective problems and not all judges behave in the manner required for this high office. However, without independent and impartial courts to enforce them, all the rights written into constitutions and laws and promoted by the Council of Europe will amount to very little.

It will therefore be one of the main or the main task not only of the Venice Commission, but also of the Council of Europe as a whole, to see to it that all European citizens have access to independent and impartial courts not only in Strasbourg, but also in their own country. To this end we are working closely with other Council of Europe bodies, such as the Consultative Council of European Judges, in further defining and refining European standards on judicial independence.

The diversity of national situations makes it important to clearly identify the common ground at the practical level beyond the solemn declarations in favour of judicial independence we find in all the documents.

Another problem in the judicial field that is of particular relevance to the Council of Europe is the excessive length of proceedings in many member states. In co-operation with CEPEJ, we have studied this issue following an initiative by the Romanian chair of the Committee of Ministers and we adopted a report on the effectiveness of national remedies in respect of excessive length of proceedings last year. This report will be presented

to your Committee in more detail at your meeting of 6 June.

Madam President,

From the judiciary, it is only a small step to the topic of fundamental rights. We are regularly addressing human rights when advising on the drafting of fundamental rights' listings in national constitutions or when examining laws on specific freedoms, such as the freedom of assembly, as was recently the case in Azerbaijan and Ukraine.

The protection of fundamental rights remains topical in old and new democracies. While many new democracies have inherited, from the former system, a tendency to excessive regulation of fundamental rights, making the enjoyment of a right dependent on previous registration with or authorisation by the authorities, old democracies may be tempted to cut corners in the fight against terrorism. This was the background of our report on renditions and secret detention centres, adopted at the request of the Parliamentary Assembly and subsequent to the Secretary General's enquiry under Article 52 of the European Convention on Human Rights. It is also a factor favouring the growing use of video-surveillance, another topic currently under our consideration.

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This topic also confirms the point I made at the beginning, that fundamental rights and democratic institutions have to be seen together. At the request of your Committee, we will soon adopt a report on the democratic control of security services and, later this year, a report on the democratic

control of the armed forces. The maintenance of the internal and external security of the State is vital and essential for the protection of the other values and interests by the State and intelligence is an inescapable necessity for modern government, but, without democratic control, one cannot expect security services to fully respect fundamental rights.

There are a number of other subjects I should address, but in the limited time can only touch upon, such as constitutional justice, an area where we remain very active in accordance with the task given to us by the Warsaw Summit and where we envisage to co-sponsor the first World Conference on Constitutional Justice in 2009.

In 2005 in the series Science and Technology of Democracy a comparison of United States and European Constitutionalism was published by the Commission, and has been the subject of scholarly review.

Another such topic is the holding of free and fair elections, an area where we co-operate very closely and fruitfully with ODIHR and where we play an important role in the different action plans adopted by your Committee. In this respect I would just like to point out that, following the precedent of the Code of Good Practice in Electoral Matters, your Committee will soon receive, for its endorsement, the Code of Good Practice on Referendums.

I will, however, address one issue, which is close to the priorities of the San Marino and the Serbian

Presidencies of the Committee of Ministers, but less obviously associated with our Commission, intercultural dialogue. As lawyers, we do not claim competence to carry out a dialogue on cultural and religious matters. Nevertheless, religious affairs are often the subject of legal regulation, more often than not of a constitutional nature and we are increasingly confronted with issues of religious freedom, for example when we examined a draft law of “the former Yugoslav Republic of Macedonia” on religious communities or when we prepared a study on blasphemy and religious insult at the request of the Parliamentary Assembly.

The right to culture is to be found in Articles 22 and 27 of the Universal Declaration of Human Rights of 1948 and in Article 27 of the International Covenant on Civil and Political Rights as well as in Article 15 of the Covenant on Economic, Social and Cultural Rights, which clearly point towards a recognition of this “legal” human right. Constitutionally speaking, rights to a separate cultural identity of minorities are also at times very relevant. Article 2 of the First Protocol to the European Convention is also very much to the point.

Beyond these specific issues, we have to be conscious that the law is a normative instrument common to the different cultures and that it may be possible to find common ground when we put our different approaches into legal language. Last year, the North-South Centre of the Council of Europe organised, together with us, in Lisbon an interesting and successful Conference on “Constitutionalism:

the key to Democracy, Human Rights and the Rule of Law”. Participants felt that this was a good way of bringing practical substance into a dialogue often in danger of remaining at the purely rhetorical level.

In effect, non-European countries show increasing interest in our work. Thanks to the support from the EU we are active in Kazakhstan and Kyrgyzstan. We have been working for many years, thanks to voluntary contributions from Italy, Ireland and Norway, together with judges from Southern Africa to strengthen judicial independence.

In addition, we are currently establishing links with the Union of Arab Constitutional Courts and Councils. At this very meeting, you will discuss the request from one of Europe’s neighbours, Morocco, to become a member of our Commission. This country would wish to close the gap so as to attain European standards of democracy. Membership in our Commission may, however, provide an additional impetus for democratic reforms and, coming from Malta, it is my own personal conviction that Europe has every interest in fostering dialogue and co-operation on human rights and democracy across the Mediterranean. The admission of Morocco would be a positive signal to other Mediterranean countries and, in its light, a previous request for membership from a Mediterranean country, the request from Israel, could be brought up again.

Madam President,

To sum up and conclude, I believe that my short presentation has shown that our activities cover a

wide and important field and that, notwithstanding the achievement of important results, there is no lack of challenges for the future. If you delve into our written Annual Report, you will find many more issues and activities which merit your attention. To carry out these tasks we will need your continued support both in budgetary terms and at the political level.

As regards the budget, I believe that we have achieved much with relatively limited resources. While I am convinced that we should stay a lean and efficient body, it puts an increasing strain on our capabilities if we are subject, in addition to a zero real growth policy, to regular requests for efficiency savings. We are already working within a very limited budget and any further reductions in this budget can only affect our work negatively.

At the political level it is important that you continue to encourage states to comply with our recommendations and that you assist us in consolidating our co-operation with other international organisations. To take a practical example, it is welcome that the Memorandum of Understanding with the European Union asks both organisations to make full use of our expertise. It would have been even better if reference had been made to

the possibility that the European Union could become a full member of the Venice Commission, a possibility raised in the Juncker report.

But let me come back to the point of departure of my intervention. I started by underlining the value and importance of our dialogue with the organs of the Council of Europe as a key to our success. This dialogue should be as direct and regular as possible.

Our Commission is at the service of the Council of Europe as a whole and we cover a wide range of issues, which are in no way exclusive to the legal field, although we do so from a constitutional perspective. It would therefore be logical for our Commission to be autonomous under the Secretary General and not be part of a particular Directorate General. This would best correspond both to the independence of our Commission and to its character as a transversal body.

I believe that I have given you now enough food for thought and discussion and remain at your disposal for answering any questions you may wish to raise.

Thank you very much, Madam President.

I. WORKING FOR DEMOCRATIC STABILITY – AN OVERVIEW OF VENICE COMMISSION ACTIVITIES IN 2006

I. The Venice Commission – an introduction¹

The European Commission for Democracy through Law, better known as the Venice Commission, is a Council of Europe consultative body of independent experts on constitutional matters. Established in 1990, it has since played a leading role in the adoption of constitutions that conform to the standards of Europe's constitutional heritage. The Commission meets four times a year in Venice for plenary sessions and works in three fields: constitutional assistance, electoral matters and constitutional justice.

• Constitutional assistance

The Venice Commission's primary task is to assist and advise individual countries in constitutional matters – to provide “constitutional first-aid” – upon request from individual states, the Council of Europe's organs or other international organisations.

The working method adopted by the Commission when providing constitutional assistance is to appoint a rapporteur group (primarily from among

its members) which either provides assistance in the drafting of constitutional texts or prepares an opinion on whether a proposal for a legislative text meets European standards in a given field and on how to improve the texts on the basis of European experience. Before transmitting it to the authorities of the country in question, the draft opinion is submitted for consideration and adoption by the full Commission during a plenary session.

Although its opinions are generally reflected in the adopted legislation, the Commission does not set out to impose solutions, but adopts a non-directive approach based on dialogue. That is why the rapporteur group, whenever possible, visits the country concerned and meets with the different political actors involved in the issue to ensure an objective view of the situation as far as possible. A representative of the country concerned may be invited to address the Commission when the draft opinion is discussed in plenary.

• Constitutional justice

Another branch of the Commission's activities includes co-operation with the constitutional

1. For more information please refer to the Venice Commission's site www.venice.coe.int.

courts and equivalent bodies. Since its creation, the Venice Commission has been aware that it is not sufficient to assist states in the adoption of democratic constitutions, but that these texts need to be implemented in society. Key players in this field are constitutional courts and equivalent bodies exercising constitutional jurisdiction. As early as 1991, the Commission started to collect and disseminate constitutional case-law and to organise seminars with constitutional courts. The commission fosters mutual exchanges between the constitutional courts and supports courts seeking assistance in their relationship with other state powers. The activities of the centre are directed by the Joint Council on Constitutional Justice, which is composed of members of the Venice Commission and liaison officers appointed by courts from more than fifty countries, as well as the European Court of Human Rights and the Court of Justice of the European Communities.

- **Electoral matters**

Another field of activity of the Commission is electoral law, where it strives to bring the electoral legislation of member States up to European standards. For any democratic society, free and fair elections are of paramount importance; therefore, the Venice Commission has defined the principles applicable to democratic elections in the Code of Good Practice in Electoral Matters and a number of other standard-setting texts. It also drafts opinions and recommendations on the electoral legislation of member States and organises training

seminars targeting all the actors involved in the electoral process. To a large extent, these activities are carried out through the Council for Democratic Elections, a joint body set up in co-operation with the Parliamentary Assembly and the Congress of Local and Regional Authorities of the Council of Europe.

2. The Commission in 2006

With respect to 2006 the following main activities should be highlighted:

- **Constitutional assistance**

Constitutional reform

In 2006, the Venice Commission continued to be involved in constitutional reform in Bosnia and Herzegovina. The Opinion on the need for comprehensive reform, adopted by the Commission in 2005, was the point of departure for the reform process and the Commission commented reform proposals made in 2006. While reform efforts did not bear fruit in 2006, they will have to be resumed in 2007 and the Commission remains available to provide assistance. The Commission will also continue to provide assistance in the drafting of a new Constitution of Montenegro in 2007.

The Commission was also involved in the constitutional reform in Kyrgyzstan and adopted opinions on constitutional amendments proposed in Georgia and Ukraine.

Territorial organisation and settlement of conflicts

At the request of the Georgian authorities, the Venice Commission adopted opinions on the draft law on restitution of property to the victims of the Georgian-Ossetian conflict and tried, through contacts and discussions with the various interested parties, to contribute to a generally acceptable solution. It provided advice on legal and constitutional issues to the UN Office of the Special Envoy for the future status process for Kosovo, Mr Martti Ahtisaari.

Respect for human rights and the rule of law

At the request of the Parliamentary Assembly, the Commission adopted an opinion on legal obligations of Council of Europe member States in respect of secret detention facilities and the interstate transport of prisoners as well as an opinion on the protection of human rights in emergency situations. Following consultations with other international bodies, it adopted a report on non-citizens and minority rights. The Commission also adopted a report on the effectiveness of national remedies in respect of excessive length of proceedings on the basis of information provided by 45 Council of Europe member States.

The Commission adopted opinions on laws on freedom of assembly in Azerbaijan and Ukraine, on freedom of religion in Serbia and Ukraine and on the Ombudsperson in Armenia.

• **Constitutional justice**

Strengthening constitutional justice

The Joint Council on Constitutional Justice of the Commission continued to support, and work with, constitutional courts through the Bulletin on Constitutional Case-Law and the CODICES database (www.CODICES.coe.int) as well as the Venice Forum.

The Commission adopted opinions on the laws on constitutional courts of Georgia, Romania and Ukraine in the field of constitutional justice as well as on the laws on the Human Rights Defender of Armenia and the Prokuratura of Ukraine.

In 2006, conferences and seminars on constitutional justice issues were held, *inter alia*, in Georgia, Latvia, Moldova, Russia, Romania and Slovakia.

Looking beyond Europe

In addition to its close co-operation with the Conference of European Constitutional Courts, the Commission continued with its regional approach by co-operating with associations of constitutional and supreme courts outside Europe. By virtue of its agreement with the Association of Constitutional Courts Using the French Language (ACCPUF), the Commission included case-law from the ACCPUF courts in its CODICES database, in particular from African Courts. Thanks to a contribution from Ireland and Italy, the Commission was able to support the Southern African Judges Commission in the organisation of

meetings in Venice, Strasbourg and Maputo as well as a study visit to Dublin for registrars. The purpose of this co-operation is to strengthen the capacity of these courts and to enable them to assist each other in case of undue interference from other state powers. The Commission continued its co-operation with Asian Constitutional Courts especially with those that contribute to the CODICES database. Contacts with regional bodies uniting constitutional courts in Ibero-America and in Arab countries were established.

- **Electoral matters**

The Commission adopted, mostly together with the OSCE Office of Democratic Institutions and Human Rights, opinions and recommendations on (draft) electoral legislation in Armenia, Belarus,

Croatia, Georgia, Serbia and “the former Yugoslav Republic of Macedonia” and an opinion on the draft legislation on the financing of political parties in Croatia.

The Commission also adopted a number of documents defining the European electoral heritage, including Guidelines on the Holding of Referendums, a report on electoral law and electoral administration in Europe, an Election Evaluation Guide, a report on the participation of political parties in elections and an opinion on the prohibition of financial contributions to political parties from foreign sources.

Furthermore, the Venice Commission organised the 3rd European Conference of Electoral Management Bodies and a UniDem Seminar on “The pre-conditions for a democratic election”

II. DEMOCRATIC DEVELOPMENT OF PUBLIC INSTITUTIONS AND RESPECT FOR HUMAN RIGHTS¹

I. Country specific activities

- **Albania**

Draft decision on the limitation of parliamentary immunity and on corruption offences and abuse of duty

In December 2005, the Deputy Prime Minister of Albania asked the Commission for an opinion on the parliament's draft decision on the limitation of parliamentary immunity and offences related to abuse of duty (CDL (2006)002). At its 66th Plenary Session in March 2006, the Commission held an exchange of views with the Speaker of the Albanian parliament, Ms Topalli, who emphasised the need to limit parliamentary immunity as a way of combating corruption, and Mr Buffi, the Deputy Speaker, who said that the proposed reform might contravene the Constitution and the Code of Criminal Procedure.

It was, it seemed, permissible for a parliament to lift parliamentary immunity beforehand, provided that certain procedural and substantive conditions were met, while respecting the primacy of the

Constitution and ensuring the proper functioning of Parliament. In the light of the comments made by Mr Bartole and Mr Nolte, the Commission considered that the Albanian draft posed some problems in terms of interpretation and constitutionality (CDL-AD(2006)005). It noted that Article 81.2 of the Albanian Constitution offered a possible solution, should the Assembly wish to adopt general provisions on the limitation of parliamentary immunity, after obtaining the agreement of three fifths of all its members. Also, it was for the competent Albanian authorities to settle other issues such as the need for an individual decision in each case and clarification of the terms "residence" and "abuse of duty".

- **Azerbaijan²**

Law on Freedom of Assembly

In May 2006, the Head of the Presidential Administration of Azerbaijan requested an opinion of the Venice Commission on the "Law on Freedom of Assembly in Azerbaijan" adopted in November 1998. Towards that end, a round table

1. The full text of all adopted opinions can be found on the website www.venice.coe.int

2. For opinions in the electoral field see Section IV below.

was organised by the OSCE Office in Baku in September 2006. Mr Aurescu attended this event on behalf of the Venice Commission. At its 68th Plenary Session in October 2006, the Commission adopted the opinion on the Law on freedom of assembly in Azerbaijan (CDL-AD(2006)034), which was co-ordinated with the OSCE/ODIHR and drawn up on the basis of comments by Mr Aurescu, Ms Flanagan and Mr Paczolay.

The opinion emphasises that the Law contains correct statements of principle governing freedom of assembly. However, it sets out, with excessive details, the conditions for exercising the constitutionally guaranteed right of assembly, especially where its exercise would pose no threat to public order and where necessity does not in fact demand state intervention. The relevant regulation should focus on what is forbidden rather than on what is allowed. The principle of proportionality is not properly respected and the Law provides for an automatic prohibition of holding an assembly in numerous cases.

It is important that improvements in the text of the Law be coupled with progress made in its implementation, which may justify awareness-raising measures and adequate training for the competent authorities so as to avoid a too restrictive reading of the Law. The Venice Commission will

continue its co-operation with the Azerbaijani authorities on this topic in 2007.

- **Belarus¹**

Conference “Belarus – On the road to the future” (Vilnius, 10 February 2006)

A representative of the Venice Commission took part in this Conference, bringing together representatives of the Belarus opposition, and made a presentation on the constitutional reform required for a new Belarus.

- **Bosnia and Herzegovina²**

Constitutional reform

In March 2005, the Commission adopted an opinion on the constitutional situation in Bosnia and Herzegovina (BiH) and the powers of the High Representative (CDL-AD(2005)004) providing a very critical assessment of the constitutional situation in the country and outlining necessary reforms. Within the country, a group of experts was set up under the auspices of the US Institute for Peace with the aim of preparing a first reform package addressing the most important issues.³

This work continued in 2006 with the Venice Commission being officially involved at two stages, in order to enable the political party leaders to

1. For opinions in the electoral field see Section IV below.

2. Ibid.

3. See the Annual Report for 2005.

finalise the reform package. On 2 March 2006, the Chairman of the Presidency of BiH asked the Venice Commission to provide an urgent assessment of three different options for the election of the Presidency. This assessment (CDL-AD(2006)004), based on comments by Messrs Helgesen, Malinverni, Scholsem and Tuori, was sent to the Presidency on 7 March 2006 under the responsibility of the reporting members and endorsed by the Commission at its 66th Plenary Session on 17 to 18 March 2006.

The opinion underlines that none of the three proposed options correspond to the long-term preference of the Venice Commission for a single, indirectly elected President. Two of the three proposals were, however, an improvement on the current situation and removed the discriminatory provision criticised in the Commission's previous opinion on the constitutional situation in the country. Among these two options, Proposal III for an indirect election of the Presidency through the BiH Parliament seemed more in line with the overall aims of constitutional reform, although certain flaws of the Proposal, in particular the strong role of the House of Peoples in the election process, should be corrected.

Following a further request from the Presidency, an overall assessment of the provisionally agreed constitutional reform package was sent to the authorities on 7 April 2006 (CDL-AD(2006)019). The opinion, based on comments by Messrs Helgesen, Jowell, Malinverni, Scholsem and

Tuori, contains a detailed assessment of the proposed text and includes many critical remarks and proposals for improving the text. While the opinion expresses regret that the reform does not go further, it however welcomes the proposed text as an important first step in the right direction.

In particular, the Commission regards the adoption of this package before the forthcoming elections as crucial, since the reform removes the electoral provisions directly discriminating against a large number of citizens of BiH, which would have undermined the legitimacy of the vote. Moreover, it welcomes that the reform addresses the issues identified as priorities for reform by the Venice Commission. The text grants additional powers to the state level, a step which is indispensable if BiH wishes to take part in European integration and which brings the country closer to the situation in other federal states. The reform increases the efficiency of the state institutions by strengthening the Council of Ministers and the House of Representatives and reducing the role of the collective Presidency and the House of Peoples. In conclusion, the Commission notes that the importance of the reform, both with respect to its practical consequences and as a signal from BiH to Europe that the country is resolved to take the steps required for European integration, cannot be overestimated and that the opportunity to strengthen the powers of the state level, to streamline decision-making and to show to Europe that BiH is capable of overcoming old divisions in

the interest of European integration, should not be missed.

Despite this positive assessment by the Commission, the proposed text failed to obtain the required two-thirds majority in the BiH Parliament for its adoption. Efforts in favour of constitutional reform will, however, resume in 2007.

- **Finland**

Evaluation of the Constitution

The Ministry of Justice of Finland asked the Venice Commission to participate in the evaluation of the current Constitution of the country, which entered into force in 2000. At the December Session of the Commission, the Finnish representative outlined the main differences between the present and the previous Constitution. A Commission delegation will visit Finland in 2007 for exchanges of views on the text and its implementation.

- **Georgia¹**

Constitutional reform

In December 2006, the Georgian authorities asked the Venice Commission to provide a quick evaluation of constitutional amendments proposed for adoption by the Georgian Parliament. The Venice Commission discussed the amendments at its

December Session and asked the reporting members, Messrs Bartole and Dutheillet de Lamothe, to prepare a final opinion on this basis. The final opinion (CDL-AD(2006)40) points out that an extension of the mandate of a sitting parliament is permissible only for valid constitutional reasons and that the President should be able to fix the dates of elections only within a limited range of time. It welcomes that the draft reduces the role of the President in appointing judges and points to the need to define an alternative procedure for such appointments.

The Georgian Parliament adopted a modified version of the amendments on 27 December 2006.

Status of South Ossetia

Upon a request by the Minister of Justice of Georgia, an interim opinion on the draft Law on Restitution of Housing and Property to the Victims of the Georgian-Ossetian Conflict was adopted by the Venice Commission at its 60th Plenary Session. During the 66th Session, the Georgian Minister of Justice asked the Venice Commission again to give an opinion on a revised version of the draft Law which he presented as a part of President Saakashvili's peace plan for the South Ossetia-Georgia conflict.

On 8-9 February 2006, a delegation from the Venice Commission, composed of Messrs Aurescu and Hamilton, accompanied by Mr Buquicchio,

1. For opinions in the electoral field see Section IV below.

Mr Dürr and Ms Mychelova, held discussions in Georgia with other international organisations on how to further develop this plan in the areas of competence of the Commission. The Venice Commission gave an interim opinion on the draft Law of Georgia on the Rehabilitation and Restitution of Property of Victims of the Georgian-Ossetian Conflict (CDL-AD(2006)007, adopted at the 66th Plenary Session, based on the comments of Messrs. Aurescu, Bartole, van Dijk and Hamilton (The Venice Commission had also received observations on the Georgian draft Law from UNHCR). The revised text represented an improvement to the previous draft. Several of the recommendations made by the Venice Commission have been included. Nevertheless, further amendments, additions and clarifications were needed to improve the Law.

On 30-31 March 2006, Mr Dürr participated in the “Georgian-Ossetian Dialogue Meeting on Compensation, Restitution and Restoration of Rights for the Victims of the Georgian-Ossetian Conflict” in Vladikavkaz, North Ossetia/Russian Federation, organised by the International Institute for Strategic Studies (IISS).

On 17-18 May 2006, a delegation from the Venice Commission, composed of Mr Hamilton, Ms Mychelova and Mr Dürr, held meetings with the Georgian Ministry of Justice, international organisations (UNHCR, OSCE and the EC Delegation) in Tbilisi and with the *de facto* authorities in South Ossetia, in Tskhinvali.

Following these meetings, the Venice Commission adopted an opinion on the draft Law of Georgia on property restitution and compensation on the territory of Georgia for the victims of the conflict in the former South Ossetia District, in June 2006, at its 67th Plenary Session (CDL-AD(2006)010).

The Commission considers that the revised draft Law is clearer than its previous versions and that it solves several problems. Nonetheless, other issues remain open, especially if the Law is to function also as a confidence building measure. In order to facilitate the acceptance of this Law by the Ossetian side, the Venice Commission proposed to rename it and suggested that a number of revisions and improvements be made to it related more specifically to the composition of the Restitution Commission.

In particular, the Opinion of the Venice Commission recommended to make a clear separation between the right to restoration of property and the right to return; to reduce the size of the Commission; to reduce the composition of committees from six to three members and to establish a permanent appeal committee. The opinion also recommended the introduction of complementary measures to enable the exercise of the right for the sale of returned property; to grant jurisdiction to the Restitution Commission also in cases already decided by ordinary Georgian courts; to clearly set out the list of cases of exclusion of property restitution; to allow former Georgian citizens, who were displaced due to the conflict, to run for

candidacy for the membership of the Restitution Commission

In addition, the Venice Commission recommended that some changes be made linked, in particular, with the appeal to the Restitution Commission; to fines; to hearings; to the exclusion of the reciprocity principle and to first instance decisions. The right of applicants to use the Russian language should be provided; the need to increase the confidence in the Georgian Supreme Court with respect to appeals brought against decisions of the Restitution Commission by including international advisers in this process; to further enhance the rules on publicity and transparency.

A key recommendation made was to consult with the Ossetian side. Such consultations between the Georgian authorities and civil society in North and South Ossetia have taken place in Vladikavkaz and Tbilisi. However, further consultations with both sides were recommended before the adoption of the Law. The purpose of such consultations will be to inform all sides properly and provide the possibility for them to express their position. The rapporteurs call on both parties, in particular South Ossetia, to participate in such consultations. A process of consultation should allow to take on board requests by the forced migrants as well as the above recommendations and those of the UNHCR.

• **Kazakhstan**

Legal and constitutional co-operation

Kazakhstan has, for several years, enjoyed observer status with the Venice Commission. However, there has been no permanent co-operation between the Commission and the authorities of this country. In 2005, the European Commission suggested that the Venice Commission develop its co-operation with Kazakhstan focused on legislative reform in fields such as the separation of powers, constitutional justice and human rights protection. A Joint Programme for Kazakhstan and Kyrgyzstan was concluded with the European Commission in December 2006.

At the invitation of the Kazakhstani authorities, a delegation of the Venice Commission visited Almaty and Astana on 16-17 November 2006. During a fruitful exchange of views with representatives of the Presidential Administration, the Parliament, the Constitutional Council and other officials, possible co-operation in a number of fields was explored. The Venice Commission delegation was informed that the authorities were planning to conduct reforms in two steps: (1) from 2006 to 2008 a number of laws would be amended in the framework of the existing Constitution and then (2) from 2008 to 2011 the authorities would carry out a substantive constitutional reform aimed, amongst other things, at strengthening Parliament. In the process of reforming the legislation, the authorities would need expert assistance

from the Venice Commission. Several Kazakhstani officials informed the delegation that Kazakhstan might seek full membership to the Venice Commission in the near future.

During the meeting with the Constitutional Council of Kazakhstan, it was decided to organise a joint activity in late spring 2007.

The Venice Commission is grateful to the European Commission's mission to Almaty for the assistance it provided in organising and conducting the visit.

In December 2006, representatives of Kazakhstan attended the 69th Plenary Session of the Venice Commission.

- **Kyrgyzstan**

Constitutional reform

On 4-5 July 2006, a Commission delegation visited Kyrgyzstan to discuss constitutional reform. The delegation met, amongst others, the Speaker and some members of Parliament, the Prime Minister, the Head of the Presidential Administration and the members of a working group set up by the President to prepare new constitutional drafts. During the visit the preliminary version of the three drafts for a new Constitution prepared by this working group was published. One draft was based on a presidential system of government, one on a parliamentary system and another on a mixed system.

Thereafter, in early September 2006, the Commission was asked through the OSCE Centre in Bishkek to provide, within a few days, comments on the final version of these drafts (available in Russian only). To sum up the preliminary comments made by the rapporteurs, Mr Fogelklou and Ms Nussberger, the drafts provided for improvements in the field of human rights (including the abolition of the death penalty) and the judiciary. There were, however, also negative elements in this respect such as the proposed abolition of the Constitutional Court. The presidential draft provided for a super-presidential system without adequate checks and balances, the mixed draft was in reality also presidential since it did not foresee a Prime Minister and the parliamentary draft did not seem very realistic under the present circumstances. The comments, therefore, recommended combining the positive features of the new drafts with those of the 2005 draft, which had been the subject of a Commission opinion (CDL-AD(2005)022).¹

At the October 2006 Session, the Speaker of the Kyrgyz Parliament, Mr Sultanov, thanked the Commission for its comments. Currently, about 20 drafts for a new constitution have been proposed and the Parliament is trying to harmonise all of them. The main question discussed was the distribution of powers between President, Parliament and Government. President Bakiev wanted to strengthen the central bodies and have

¹. See the Annual Report for 2005.

a government less accountable to Parliament. In his own opinion, the adoption of a presidential system would be a step backwards and would lead to political conflicts. On the other hand, political parties in Kyrgyzstan were not yet sufficiently developed to move towards a parliamentary system. Therefore, a mixed system with the president as a moderator and a government enjoying more independence from the President should be preferred.

On 9 November 2006, the Kyrgyz Parliament adopted a new Constitution in a tense political environment. Both the President and the Speaker asked the Venice Commission to provide an opinion on this text. At the December 2006 Session of the Commission, both the Minister of Justice and the President of the Constitutional Court referred to problems of implementing the new text in the transitional period. On 30 December 2006, the Kyrgyz Parliament approved a new version of the Kyrgyz Constitution.

In December 2006, a Joint Programme on Constitutional Assistance for Kyrgyzstan and Kazakhstan was concluded between the European Commission and the Venice Commission. Thanks to funds from this programme, the Commission will continue and intensify its co-operation with the country, in particular with respect to the new Constitution.

- **Mexico**

Conference on transparency and access to information

A Venice Commission representative took part in the Conference on transparency and access to information in Mexico City in August 2006 and presented an overview of constitutional rules in Europe on this topic.

- **Moldova¹**

Opinion on the information and security service of the Republic of Moldova

In November 2005, the Venice Commission was asked by the Speaker of the Moldovan parliament to give an expert opinion on the organic law of 22 July 2005 on the information and security service. At its 66th Session in March 2006, the Commission adopted its opinion on this law, prepared on the basis of the comments made by Mr Matscher (CDL-AD(2006)011).

The law in question complied overall with the international standards applicable in this field and was consistent with the Venice Commission's earlier recommendations on this subject. There were, however, a few flaws that needed remedying. The Commission advised the Moldovan authorities to make various improvements with regard, for

1. For opinions in the electoral field see Section IV below.

example, to the excessive number of general references to other legislation, often without further clarification, and the confusion and ambiguity that were liable to arise from Article 7. This last contained an exhaustive and excessively detailed list of the tasks of the security service, making it difficult for it to adapt to any changes that might occur in these tasks in the future. The Commission recommended reviewing the ambiguous role assigned to the President of the Republic, which required him or her to “co-ordinate” the activities of the service. As far as oversight of the security service was concerned, the Commission suggested introducing a permanent form of supervision, to be entrusted to an independent person. It also reiterated the need for the security service to respect human rights.

Parliamentary Rules of Procedure

At its October session, the Venice Commission endorsed the comments made by Mr Bianku, Mr Haenel and Mr Muylle (CDL(2006)074, 075 and 076) on the draft law amending the parliamentary Rules of Procedure of Moldova.

With regard to the draft law, Mr Haenel thought it would be helpful to clarify the functioning of the parliament and the powers of the standing committees and to update the rules which were extremely complex and overly detailed, making

them potentially difficult to understand and implement. On a more substantive note, there were problems with the provisions governing the lifting of parliamentary immunity and with those related to “legislative proposals”.

Mr Bianku, meanwhile, felt that some provisions of the draft rules on political factions and the requirement concerning the definition of parliamentary majority and minority would have very awkward legal and political consequences for democracy in Moldova.

• **Montenegro¹**

Report of the Eminent Lawyers on the conformity of the legal order of the Republic of Montenegro with the Council of Europe standards

In June 2006, Montenegro declared its independence and stated its intention to become a member of the Council of Europe as an independent state.

Two members of the Commission, Messrs Tuori and Bradley, were subsequently requested by the Parliamentary Assembly to act as Eminent Lawyers and to prepare a report on the conformity of the legal order of the Republic of Montenegro with the Council of Europe standards, which they submitted in September 2006. In their report, they pointed to the need for a new Constitution as

1. For the follow-up to the opinion on referendum legislation in Montenegro see Section IV below.

well as for full implementation of the existing legislation.

Adoption of a new Constitution

Immediately after the declaration of independence in June 2006, the discussions on the new Constitution began. The Speaker of Parliament, Mr Ranko Krivokapic, requested the Venice Commission's assistance.

On 28 November 2006, the Commission took part in a round table organised by the Montenegrin Parliament, at which Commission representatives and the members of the parliamentary committee charged with the preparation of the new Constitution, discussed the main issues to be tackled in the new text. Great attention was devoted to the judiciary, notably the manner of appointing judges and the composition of the Judicial Council; the current appointment system in fact does not meet the applicable standards. Other priority areas include minority rights, division of labour between the Constitutional Court and the Supreme Court and the discrepancies in the wording of the human rights provisions.

At the December 2006 Plenary Session, Mr Krivokapic requested the Commission's assistance once again in adopting a Constitution that is in full conformity with European standards, and expressed the wish for Montenegro to become a

member of the Council of Europe as soon as possible. The accession procedure was under way, and the constitutional reform appeared to be crucial in this respect.

In this context, the Commission recalled that Montenegro had always co-operated in an excellent manner and that it had accomplished much progress in only a few years, which testified in favour of that country's commitment to the values of the Council of Europe. The Commission expressed its willingness to continue its co-operation with Montenegro, notably on constitutional reform.

• **Romania¹**

Follow-up to the opinion on the draft law on the statute of national minorities

In October 2005, the Commission had adopted an opinion on the draft law on the statute of national minorities in Romania. A few weeks later, the draft law was rejected by the Senate. It was then forwarded to the Chamber of Deputies, where numerous proposals for amendments were tabled when the draft was examined by the competent committees in early 2006.

Seizing the opportunity afforded by this parliamentary review, the NGO "Project on Ethnic Relations" held a round table on the draft law on 8 February 2006 in Bucharest, to which the Venice

1. For opinions concerning the judiciary, see Section III below.

Commission was invited. The main aim of this round table was to discuss, with the help of the Venice Commission, the concept of cultural autonomy in the light of European standards on the subject and existing models, as found in other European states. During the discussions involving large numbers of MPs from the main political parties, government officials and Bela Marko, the Minister of State, numerous references were made to the Commission's opinion. The discussions helped to highlight the fact that in other countries, cultural autonomy institutions were occasionally granted decision-making powers. Experience showed, however, that in order for these powers to function properly, it was important to avoid complications and excessive bureaucracy in the way such institutions were run.

Since the aforementioned round table, the examination of the draft law has been deferred and the Chamber of Deputies has not discussed it in plenary.

- **Serbia**¹

Constitutional reform

In Serbia, a new Constitution was adopted by Parliament on 30 September 2006 and confirmed by referendum on 28 and 29 October 2006. The Monitoring Committee of the Parliamentary Assembly asked the Venice Commission to provide an assessment of this Constitution. The Venice

Commission will adopt the opinion at its March 2007 Session.

Draft law on religious organisations in Serbia

In January 2005, the Venice Commission received a request for an opinion on the draft law on churches and religious organisations in Serbia, tabled by Mr Milivojević, Chair of the Commission for European Integration of the Serbian National Assembly. Mr Christians was appointed rapporteur on the draft law, which concerned the registration and legal status of religious organisations. At its 67th Session in June 2006, and after noting the rapporteur's comments, the Commission declared that the draft law (April 2006 version) was not fully in keeping with European standards.

The draft law attracted criticism on several counts. Of particular concern was the fact that specific registration was required in order to obtain some elementary rights and freedoms. Religious organisations and individuals should not have to register in order to enjoy the fundamental rights enshrined in European instruments.

Kosovo Status Process

Throughout 2006, the Venice Commission provided, upon request, informal advice on legal and constitutional issues to Mr Martti Ahtisaari of the Office of the Special Envoy of the Secretary-General of the United Nations for the future

¹ For opinions in the electoral field see Section IV below.

status process for Kosovo. In his speech before the Parliamentary Assembly of the Council of Europe, Mr Ahtisaari referred to the very good co-operation with the Venice Commission.

A Venice Commission representative took part in a workshop on “The Framework for the Protection of Rights of Communities in Kosovo” in Thessaloniki on 19-23 June 2006. Representatives of the main political parties and of the various Communities in Kosovo took part in this workshop and discussed possible arrangements for community protection to be included in the Kosovo settlement.

Follow-up to the opinion on human rights in Kosovo: possible establishment of review mechanisms

In October 2004, the Commission adopted its Opinion on human rights in Kosovo (CDL-AD(2004)033). In the Opinion, the Commission put forward a short-term and a medium-term proposal for monitoring the activities of the two international organisations, UNMIK and KFOR, responsible for the interim administration of Kosovo. In May 2005, UNMIK asked for the Commission’s comments on a proposal to set up an advisory panel of independent experts within UNMIK to review the activities of United Nations agencies operating in Kosovo and ensure they were compatible with human rights standards. At its October 2006 Session, the Commission was

informed that the issue of the appointment of the panel’s members and the involvement of the President of the European Court of Human Rights was still under discussion, but it was expected that the panel would be set up shortly. Indeed, the members of the panel were appointed in early January 2007.

• **Ukraine¹**

Draft Law on freedom of conscience and religious organisations in Ukraine

In July 2006, the Ukrainian Minister of Justice asked the Venice Commission together with OSCE/ODHIR to examine the draft Law on “Freedom of conscience and religious organisations in Ukraine”. At its October 2006 Session, the Commission adopted its Opinion (CDL-AD(2006)030), based on the comments of Messrs G. Malinverni and L. L. Christians. The Advisory Council of the ODHIR Panel of experts on freedom of religion or belief prepared separate comments.

The opinion addresses the compatibility of the draft Law on freedom of conscience and religious organisations in Ukraine with the practice of the European Convention on Human Rights in respect of religious freedom. The Venice Commission notes that the draft Law can be seen as a liberal and favourable framework for the exercise of freedom of religion. It is particularly welcome that the draft

1. For opinions concerning the judiciary and in the electoral field see Sections III and IV below.

Law is the result of wide-ranging discussions among all interested parties.

Improvements in the Law seem, however, useful in order for it to meet all the requirements of international standards. Provisions governing the system of registration of religious organisations and their legal personality should be clarified in order to avoid restrictions on church autonomy and freedom of religion. The wording of several provisions is too vague and imprecise. This may infringe the principle of certainty of the law and moreover lead to discrimination and abuse. The Commission also calls for reviewing the process of prohibition of a religious group in order to meet the international requirements of proportionality, addressing the issue of the restitution of property in a separate law, and finally taking into account the specificities and varieties of religious life.

Draft Law on peaceful assemblies

In June 2006, the Minister of Justice of Ukraine requested the Venice Commission and OSCE/ODIHR to carry out a joint assessment of the draft Law on peaceful assemblies. A meeting was held in Kyiv in September 2006 between representatives of the Ukrainian authorities, the rapporteurs of the Venice Commission and the Democratization Department of the OSCE/ODIHR.

The joint opinion on the draft Law on peaceful assemblies in Ukraine, which was prepared by the Venice Commission and OSCE/ODIHR on the

basis of comments by Messrs C. Grabenwarter, H. Haenel, G. Malinverni and D. Goldberger, was adopted by the Venice Commission at its 68th Plenary Session in October 2006. A draft Law prepared by a group of Ukrainian NGOs was also taken into account, as specifically requested by the Minister of Justice.

The draft Law under consideration is clearly endeavouring to establish a legal framework for the exercise of freedom of peaceful assembly, which is compatible with international standards. Moreover, it may be considered liberal in its approach and generally complies with European standards on freedom of assembly. The Law is, however, excessively detailed. A certain number of amendments are therefore considered necessary in order to achieve full clarity and full compliance with the relevant standards.

Draft Law on the Cabinet of Ministers

In June 2006, the Minister of Justice of Ukraine requested the Venice Commission to assess the draft Law on the Cabinet of Ministers, which was soon to be sent to Parliament. This Law was of crucial importance for the functioning of the executive branch in the country; in the past, several attempts to adopt such a law had been unsuccessful. The Commission adopted an opinion on this draft Law in October 2006. The rapporteurs, Messrs. Tuori and Scholsem, considered that a better co-ordination with the Constitution was necessary in respect of the division of competence between the President and the Cabinet, the

delegation of powers by the Cabinet and in respect of the Autonomous Republic of Crimea. In addition, they found that some competences which the Law attributes to the Cabinet of Ministers required a constitutional basis, which was currently lacking.

Pending the examination of the first draft Law, the new Government of Ukraine prepared another draft Law on the Cabinet of Ministers, which was again submitted to the Venice Commission in November 2006. Mr Tuori examined it and informed the Plenary in December 2006 that this draft presented similar problems to the previous one with respect to insufficient co-ordination with the Constitution as well as a lack of a constitutional basis.

In the meantime, however, this second draft Law was also abandoned and a new one was prepared. The Commission resolved to reiterate its availability to assist the Ukrainian authorities, once a draft Law was finally prepared and submitted to it.

Entitlement for former Cabinet Ministers to resume their parliamentary seat

In April 2006, the Ukrainian Minister of Justice sought the Venice Commission's opinion on the possible introduction in Ukraine of the entitlement for ministers to resume their parliamentary seat upon their return after having left the government. Following preliminary discussions at the June 2006 Session, the Commission adopted its opinion at the 68th Plenary Session in October on the

basis of the comments made by Mr Scholsem and Mr Tuori.

The Commission noted that under the current constitutional and legal provisions in Ukraine, there existed an incompatibility between the functions of member of parliament and member of government. This incompatibility could only be resolved by introducing an amendment to the Constitution. It would be more compatible with the principles of parliamentary democracy if the possibility were introduced for the former MP, once his or her governmental functions came to an end, to resume his or her parliamentary seat. This issue was of particular importance due to the fact that the Ukraine Constitution was currently being interpreted as providing the possibility of a vote of no-confidence in a single minister. This possibility could have added to the general political instability of Ukraine.

• Information on constitutional developments

Members of the Commission, observers and other invited guests informed the Commission at its plenary sessions of constitutional developments of particular interest. In 2006, these concerned:

- Albania – Amendments to the Law on the organisation and functioning of the High Council of Justice, possible scope of parliamentary investigatory committees;
- France – Implementation of Directives of the European Community;

- Israel – Claims for compensation against the state;
- Republic of Korea – the Constitutional Court;
- Latvia – the Constitutional Court;
- Mexico – Judicial reform;
- United Kingdom – implications of the fight against terrorism for human rights.

2. Studies and seminars of general scope

Non-citizens and minority rights

The issue of whether non-citizens should benefit from minority rights is a sensitive one that has been the focus of international debate for several years now. Opinions on the subject are often divided, not least because none of the international conventions provides a definition of the term “minority”, with the result that it tends to be understood differently in different Council of Europe member states.

In 2004, the Commission decided to undertake an extensive study on the subject. To this end, it held two round tables with representatives of the main international bodies with responsibilities in this area, both in the Council of Europe and in the OSCE and the United Nations, in order to better identify the changes that had occurred in recent years. At its December session, the Commission

adopted a very comprehensive report on the subject (CDL-AD(2007)001), in the light of the comments made by the seven rapporteurs. In its conclusions, the Commission expressed the view, *inter alia*, that a common definition of the term “minority” was no longer necessary or even desirable. The Commission did concede, however, that certain conditions could be placed on access to minority rights. Although citizenship could legitimately be included among these conditions, it should not be an automatic requirement because other criteria, such as residence, numerical size or the length of time for which a minority had been present in a given region, would seem to be more appropriate when it came to determining who should enjoy the various rights in question.

The effectiveness of national remedies in respect of excessive length of proceedings

In December 2006, the Commission adopted its report on the effectiveness of national remedies in respect of excessive length of proceedings. The Commission’s work did not concern the efficiency of justice and how to prevent unreasonable delays from taking place, but the states’ obligations to provide an effective remedy for the unreasonable delays *that have already taken place*. The distinction was, however, rather a theoretical one, to the extent that an acceleratory remedy obviously concerns the administration of justice. The Commission therefore worked in close co-operation with the European Commission for the Efficiency of Justice

(CEPEJ) and its task force on judicial timeframes. The Commission also co-ordinated its work with the CDDH Committee of Experts for the Improvement of Procedures for the Protection of Human Rights.

The study aimed at assisting states in devising a remedy or improving an already existing one in order for it to be compatible with the requirements of the European Court of Human Rights. It was also designed to assist the Committee of Ministers in monitoring compliance with such requirements.

The study contained a survey of the existing national legislation in 45 member States. It further contained an outline of the case-law of the European Court of Human Rights in respect of both Article 6 and of Article 13 and a detailed description of the requirements for national remedies in this area, which can be derived from such case-law. The study set out proposals for the improvement of the existing legislation in the light of the case-law. These took into consideration, in particular, the different issues arising in the context of civil/administrative and criminal proceedings.

The Commission expressed the opinion that the right to a trial within a reasonable time must be secured as such and cannot be systematically replaced by the payment of pecuniary compensation, which must only be granted in irreparable cases or pending the possibly necessary reforms and improvements of the judicial systems and

practices. Council of Europe member States were required to provide, in the first place, adequate procedural means of ensuring that cases are processed by courts in a foreseeable and optimum manner. The ideal compensatory remedy was, in the Commission's view, the fast tracking of the – until then delayed – procedure.

In the course of the preparation of this study, an international conference was organised in co-operation with the Romanian Minister of Justice and was held in Bucharest on 3 April 2006 on "Remedies for unduly lengthy proceedings: a new approach to the obligations of Council of Europe member States". At this conference, representatives of the Venice Commission, the Romanian authorities, the European Court of Human Rights, the European Commission for the Efficiency of Justice (CEPEJ), the Directorate General on Human Rights of the Council of Europe and the Agents of the national governments before the European Court of Human Rights discussed ways of improving national remedies in respect of unreasonably lengthy proceedings. The results of these discussions were to be integrated into the report under preparation.

Democratic oversight of the security services

In June 2006, the Committee of Ministers requested the Venice Commission to prepare a study on the legislation and practice in respect of the democratic oversight of national security in the Council of Europe member States, with special

emphasis on the role of parliaments and their specialised committees as well as on that of national courts in carrying out this task. The Commission set up a working group and started its work on this matter. The final report will be adopted during 2007.

Civilian control over the armed forces

In June 2006, the Committee of Ministers also requested the Venice Commission to carry out a study on the constitutional issues involved in the need to ensure civilian command authority over the armed forces in their national and international operations. The Commission set up a working group and started its work on this matter. A preliminary discussion was held within the sub-commission on democratic institutions in October 2006. The final report will be adopted during 2007.

Role of second chambers in Council of Europe member states

At its 68th Session (October 2006), the Venice Commission took note of the report on "Second chambers in Europe: parliamentary complexity or democratic necessity?" (CDL(2006)059), prepared by Senator Gélard (France). This report focused on the composition and appointment of second chambers in Europe and the functions and powers of second chambers, and set out the arguments for and against them. In his conclusions, Mr Garrone emphasised the need for a second chamber in

federal and regional states. He also called for diversification of representation and said that second chambers must be able to recruit the desired quality of members.

This report is to be presented at a seminar on second chambers, which the Congress of Local and Regional Authorities of the Council of Europe is planning to hold in 2007 in association with the Venice Commission.

International Conference on the Framework Convention

The Venice Commission was invited to take part in an international conference entitled "The Framework Convention for the Protection of National Minorities: a useful pan-European instrument?" on 5 May 2006 in Brussels. Organised by the Institute of Constitutional Law and the Institute of Human Rights of the Catholic University of Leuven, in association with the Academy of European Law of Florence, the conference provided an opportunity for the many participants to explore major issues such as the constitutional recognition of ethnic differences, the added value of the Framework Convention, the personal scope of the Convention, and the relationship between territoriality and personality. In this context, Mr Pieter van Dijk, who represented the Netherlands on the Commission and was among the participants at the conference, provided a much-appreciated insight into the relevant activities of the Venice Commission, in particular the opinion adopted in 2002 on the groups of persons to

whom the Framework Convention could be applied in Belgium, which took a detailed look at the scope of the principle of territoriality in that country.

3. UniDem campus – legal training for civil servants

The UniDem campus project was introduced in 2001 with the aim of fostering efficient administration and good governance as well as democratisation and human rights in the countries of the Stability Pact. The programme comprises five four-day seminars per year, made up of introductory lectures and discussions of practical examples proposed by the lecturer, and offers legal training to public officials in subjects such as the protection of fundamental rights, including the rights of national minorities, standards of public life and good administration, good law-making principles and the many political and legal issues raised by the process of widening and deepening the EU. The officials attending the seminars are expected to share the knowledge acquired at the Campus with their colleagues back home.

In the summer of 2006, Montenegro, which became independent in June 2006, was allowed to participate in the campus as a new state, taking the number of countries entitled to send officials to seminars to 16, namely: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Moldova, Montenegro, Romania, Russian Federation, Slovenia, Serbia, “the

former Yugoslav Republic of Macedonia” and Ukraine.

A two-week summer school was organised, with the help of the Faculty of Law of Karl-Franzens University in Graz (Austria), in order to better cater to the needs of participants wishing to focus on issues related to European integration. A groundbreaking exercise, the school was a success and ought to be repeated in the future.

In 2006, the “training for trainers” aspect of the Campus was stepped up, with very encouraging results: the 141 national officials who attended the seminars, led by 40 or so senior lecturers, some of them academics, others practitioners, then proceeded to pass on what they had learnt to over 1,000 officials, through gatherings, seminars and working meetings in their respective countries.

In 2006, the seminars focused on the following topics:

- Positive discrimination and access to the civil service (February)
- Concerted efforts at European level to fight corruption (May)
- European integration – Constitutional and legislative reform (July, summer school)
- Management of irregular migration in Europe and strategies to combat trafficking in human beings (October)
- Freedom of association and freedom of assembly – sources, principles and proper implementation in practice (November)

III. STRENGTHENING CONSTITUTIONAL JUSTICE AS GUARANTOR OF DEMOCRACY, HUMAN RIGHTS AND THE RULE OF LAW¹

Constitutional justice, judiciary and ombudspersons

An important part of the Venice Commission's activity relates to strengthening human rights related institutions, in particular constitutional courts, ordinary courts and ombudspersons. In all three fields the Commission gives opinions, but it co-operates most closely with constitutional courts in order to strengthen them as guarantors of constitutionalism, which embodies the basic principles of the Council of Europe – democracy, the protection of human rights and the rule of law. The vectors of this approach are opinions on the legislation governing the work of the courts, but equally important is co-operation with the courts by fostering exchanges between them (publication of the *Bulletin on Constitutional Case-Law*, the database CODICES and the on-line Venice Forum).

Three times a year, the liaison officers contribute important case-law from the co-operating courts in Europe and abroad, which is included in the database CODICES (on CD-ROM and via www.CODICES.coe.int). CODICES informs about the most significant case-law of about 80 constitutional

courts and equivalent bodies in Europe, Africa, Asia and the Americas as well as the European Court of Human Rights, the Court of Justice of the European Communities and the Inter-American Court of Human Rights. Launched in 1996, CODICES already contains more than 5000 judgments. The contributions from member and observer States are also published in English and French in the *Bulletin on Constitutional Case-Law*. The main purpose of CODICES and the *Bulletin* is to foster an exchange between the courts and to assist national judges in solving critical questions of law, which often arise simultaneously in different countries.

In 2006, the Commission published, in addition to four regular issues of the *Bulletin on Constitutional Case-Law*, two special issues: one on the Role and Functions of the Secretary General of the Constitutional Court (or equivalent body) and the other on the Criteria for the Limitation of Human Rights by the Constitutional Court. The latter issue had been prepared upon request of the Presidency of the Conference of European Constitutional Courts.

1. The full text of all adopted opinions can be found on the website www.venice.coe.int.

The year 2006 also saw a very important exchange between the courts via the Commission's Venice Forum, which is an electronic exchange between the constitutional courts moderated by the Secretariat of the Venice Commission. The liaison officer from the requesting court sends a request to the Secretariat of the Commission, which is in turn forwarded to all other liaison officers together with the result of the Secretariat's research on the topic. The replies from the other courts are then sent to the requesting liaison officer.

The Venice Commission's activities in the field of constitutional justice are steered by the Joint Council on Constitutional Justice, which held its 5th meeting on 15-16 June 2006 in Budapest (see also "mini-conference" on Gender Equality held within this framework on 16 June).

I. Opinions

• Armenia¹

Amendments to the law on the Constitutional Court of Armenia

In March 2006, the President of the Constitutional Court of Armenia requested an opinion on the draft amendments to the law on the Constitutional Court of Armenia. Following a meeting of the Commission's Secretariat with the competent

Armenian authorities to discuss the changes, the Commission examined a revised version of the draft amendments forwarded by the Armenian Constitutional Court and adopted an opinion at its 67th Session (CDL-AD(2006)017).

The Commission considered that the amendments were coherently drafted and should allow the Court to assume its widened jurisdiction. The revised draft, which was still very detailed, settled a number of issues raised by the rapporteurs, such as adducing evidence and exemption from payment of court fees if the applicant had a low income.

The decision as to whether there had been a violation of the procedure for appointing a judge to the Constitutional Court should be taken by the Court itself and not an ordinary court. In general, all grounds for removing a judge from office should be subject to a formal decision or declaration by the Constitutional Court itself.

In order to ensure the uninterrupted functioning of the Constitutional Court, judges should remain in office until their successor was appointed. Some of the deadlines mentioned in the draft seemed very tight. An appeal against the rejection of an application decided by the staff of the court should be examined by a committee of three judges rather than by the Court's President only. The Court should not be obliged to reject a claim on

¹ I. Amicus curiae opinions for the Constitutional Court of Armenia are presented in the section of this report which deals with electoral law.

the same subject as a pending case but should be allowed to join it to the first claim.

The main outstanding issues were, firstly, the power of the President and Parliament to lift a judge's immunity after the Court itself had ruled on the matter and, secondly, the mixed investigation committees tasked with settling electoral disputes and which consisted of judges of the Court and representatives of other public authorities (creating problems vis-à-vis the separation of powers). In order to resolve the first issue, however, a constitutional amendment would be required.

After the opinion was adopted, the President of the Court, Mr Harutunian, told the Commission that the adoption of the Court's rules of procedure – the Charter – had helped resolve two of the issues raised in the opinion.

The Charter now stated that any appeal against a decision denying an individual application which had been the subject of a ruling by the Court's staff would be examined by the Constitutional Court judges and not only by its President.

With regard to the committees responsible for gathering evidence in the case of disputes relating to the results of referenda and in the case of electoral disputes, under the new Charter, it was not the committees that reported to the Court, but only the participating Constitutional Court judge. The other participants could then present the Court with their own individual opinions, but separately from the judge's report.

Amendment to the Law on the Human Rights Defender of Armenia

In September 2006, the Armenian Parliament requested an opinion on Amendments to the Law on the Human Rights Defender of Armenia, which had entered into force on July 2006. The Venice Commission and the Directorate General of Human Rights provided a Joint Opinion (CDL-AD(2006)038), adopted at the 69th Session of the Commission.

The amendments were made mainly in order to ensure an alignment between the text of the Law and the revised Constitution. The institutional structure for the Armenian Human Rights Defender is in general in conformity with accepted European standards and the amendments contain several positive effects.

However, some improvements should be made. In order to ensure his or her independence, the Defender should refrain from performing any public activity that cannot be reconciled with his or her status.

The authority to monitor the administration and promote the observance of human rights might be expressed in stronger terms. The Defender's mandate could be strengthened by listing his or her fields of action in more specific terms than in the Law. Furthermore, the mandate should also explicitly refer to violations by omission.

The conditions of eligibility for election of the Defender by the National Assembly with a high

qualified majority are acceptable by European standards, but the possibility of re-election for a second term is not envisaged. The Defender's immunity provided after the end of his or her term should be given also to his or her staff. This immunity needs to be stronger and the Law lacks sufficiently clear provisions on the procedure to waive immunity.

The limits between the Defender's mandate and the judicial power may need further clarification and s/he should be able to issue recommendations on general matters related to court proceedings.

The existence of a legal remedy should not prevent a person from filing a complaint with the Defender, who should have the right and obligation to advise the complainant about legal remedies within the bounds of neutrality. The inviolability of property and premises of the office of the Defender should be guaranteed and the Defender should be able to receive financing from international donors.

- **Romania**

Draft Laws amending Law No. 47/1992 on the Functioning and Organisation of the Constitutional Court of Romania

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In December 2005, the Constitutional Court of Romania had requested an opinion on two draft laws amending the Law on the Organisation and Functioning of the Constitutional Court of Romania. The opinion on these two laws was

adopted by the Commission at its 66th Plenary Session (CDL-AD(2006)006).

Both drafts amending this Law have, in principle, the positive aim of strengthening the independence, impartiality and the court-like functioning of the Constitutional Court. The means used in the draft laws are, however, not appropriate for this goal.

Concerning the challenging of a judge, special provisions would be required rather than an application of the Code of Civil Procedure. On the one hand, they must clarify that the challenge is only applicable in procedures where an individual interest of a party is at stake and on the other hand, they must prevent the occurrence of *non liquet* situations in the Court.

The Venice Commission noted that the restriction of candidates who are or have been party members or whose family members belong or belonged to the leadership of political parties during the last five years, is clearly excessive. Furthermore, the requirement of twelve years of practice as a judge or prosecutor prior to applying for the post of judge at the Constitutional Court excludes important groups of qualified persons and might even be unconstitutional.

Following the Commission's opinion, the two draft amendments to the Law on the Constitutional Court criticised by the Commission were not further pursued by Parliament. The Commission has been informed that its opinion had been a major factor in this respect.

- **Ukraine**

Constitutional and legislative improvements to ensure the uninterrupted functioning of the Constitutional Court of Ukraine

Following the parliament's failure to appoint and swear in several judges, the number of serving judges was insufficient to form a quorum and the Court was rendered inoperative. In December 2005, the Commission, echoing the concerns expressed by the Lithuanian Presidency of the Conference of European Constitutional Courts, had adopted a declaration inviting the parliament to appoint the judges and to swear them in.

In March 2006, Mr Holovaty, the Ukrainian Minister of Justice, asked the Venice Commission for an opinion on possible legislative improvements to ensure the uninterrupted functioning of the Constitutional Court of Ukraine. The Commission adopted an opinion on the subject at its 67th Session in June 2006 (CDL-AD(2006)016).

The stable functioning of the Constitutional Court could be ensured through a combination of constitutional and legislative amendments: creation of a safeguard in the event that a constitutionally empowered authority should fail to appoint (or elect) new judges of the Constitutional Court, by devolving the power of appointment to the other bodies entitled to exercise it. Alternatively, it could be ensured through legislative changes alone: either by requiring judges to remain in office until their successor was appointed or by simplifying

the swearing-in procedure (provision of a written form of taking the oath or introduction of an internal mechanism).

Following the formation of a new government in Ukraine, the political stalemate has been resolved and Parliament has taken the necessary steps to ensure that all vacancies in the Court are filled. The Court is once again operational therefore. Parliament has also passed a law prohibiting the Court from dealing with matters concerning the constitutionality of the constitutional amendments introduced in 2004.

At the 68th Session of the Venice Commission in October 2006, the Minister of Justice of Ukraine, Mr Zvarych, said that the Commission's opinion would provide a framework for improving Ukraine's legislation in the years ahead. The ban on reviewing the constitutionality of constitutional amendments should apply only to the content of these provisions, which were now an integral part of the Constitution, but should not prevent the Court from reviewing the procedure governing their adoption.

Draft amendments to the Constitution on the Prokuratura

When amending the Constitution of Ukraine in December 2004, the Ukrainian Parliament included, within the competencies of the prosecution service, the power of general legal supervision. This power, which was a main element of the Soviet type Prokuratura system, had been phased out by

the Constitution adopted in 1996. The Venice Commission had warned against its re-introduction and criticised this amendment in its opinion on the constitutional amendments.¹ The Parliamentary Assembly, in its Resolution 1466 (2005), urged the Ukrainian authorities to reconsider it.

The Office of the General Prosecutor of Ukraine prepared draft amendments to the Constitution of Ukraine to take into account this criticism and submitted them to the Venice Commission for opinion. Mr Hamilton, Ms Suchocka and Mr Cornu, expert of the Directorate General of Legal Affairs, prepared comments on the draft and discussed it at a Conference on “Reform of the Prosecution Service in Ukraine – Challenges and Prospects” on 2-3 October 2006 in Kyiv. The Venice Commission adopted its Opinion CDL-AD(2006)029 on the basis of these comments at its 68th Plenary Session in October 2006.

In its opinion, the Commission welcomes the draft as an important step in the right direction, in particular, in making the Prosecutor General’s Office more independent from political pressure, defining the Public Prosecutor’s Office as part of the judicial power and better protecting the Prosecutor General against unjustified dismissal. It encourages the Ukrainian authorities to go even further in this respect both in the text of the Constitution and of the law to be adopted subsequently. It therefore

recommends reconsidering some provisions of the draft.

As regards the powers of the Prosecutor General’s office, the Commission regards the proposed reform as a useful initial step. In particular, the deletion of the power of general supervision is welcomed. The Commission expresses, however, concern that other provisions may re-introduce this power through the back door. In the Commission’s opinion, the sub-section on the protection of human rights and state and public interest has to be redrafted, the scope of this competence needs to be narrowed down and to be made the subject of a Transitional Provision with the final aim of limiting the competence of the Prosecutor General to that of criminal prosecution. The present role of the Public Prosecutor’s Office in protecting human and citizens’ rights should be entrusted, in the future, to other bodies or exercised by individuals themselves, with the assistance of the lawyers of their choice.

2. Constitutional Justice Seminars (CoCoSem Programme)

Through its CoCoSem programme, the Venice Commission strengthens constitutional courts by promoting exchanges between them. Often, constitutional courts are faced with similar issues. While constitutional provisions differ from one

1. CDL-AD(2005)015; see the Annual Report for 2005.

country to another, the same constitutional principles apply and the courts can usefully build upon arguments developed by their peers. In 2006, the topics requested by the courts ranged from electoral issues (Georgia), pluri-ethnic states (Moldova) to issues of Community Law (Slovakia).

- **Conference on the protection of electoral rights and the right to political associations by the Constitutional Court (Tbilisi, Georgia, 10-11 February 2006)**

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

During the Conference, the forms of direct and representative democracy in Georgia, legal guarantees for the protection of the right to vote and the right to political association under Georgian legislation and under the ECHR were presented and discussed. As for the Georgian legislation and practice, several critical points were raised by the speakers and other participants, particularly as regards the legislation on referendums, electoral appeals to the Constitutional Court and implementation of the legislation and courts’ decisions. As for the referendums, a broader scope of issues/questions could be decided by referendum,

depending on the nature of the texts. At the same time, the Law on referendums as such would need a revision. In addition, according to some participants, the implementation of the results of referendums was problematic too. It was pointed out that the present Electoral Code of Georgia is too long and detailed. Furthermore, as some participants suggested, a number of its provisions contradict other existing laws, for example, the Civil and Administrative Codes, and even, to some extent, the voting rights guaranteed by Articles 49 and 50 of the Constitution. It was also mentioned that pluralism of political views was not developing properly in Georgia.

- **Review by the constitutional courts of proceedings before ordinary courts applying Community law (Kosice, Slovakia, 1-2 June 2006)**

The Constitutional Court of Slovakia and the Venice Commission held a seminar on “Review by the constitutional courts of proceedings before ordinary courts applying Community law” on 1-2 June 2006 in Kosice.

The aim of this seminar was to discuss the experience of long-standing and newly created constitutional courts in implementing the principles and legislation of the European Community.

Central to the presentations delivered by representatives of constitutional courts in both long-standing and new member states of the European

Union was the exercise of the principle of supremacy of supranational law derived from the legal order of the European Community.

As well as issues pertaining to the supremacy of Community law and its direct effects in domestic legal systems, speakers and participants also looked at the role of constitutional courts in human rights protection, as envisaged in the European Convention on Human Rights and the relevant case-law.

With the globalisation of human rights protection, constitutional courts have become a major player in the process of incorporating into domestic law principles arising from international treaties ratified by their countries.

The impact of the case-law of the European Court of Justice on domestic case-law was discussed at length. In addition, the speakers were able to talk candidly about, and to compare, the problems encountered by their domestic courts in the European integration process.

Particular attention was given to the role of the constitutional court in dealing with what could be construed as a difference in the case-law of the ECHR in Strasbourg and the ECJ in Luxembourg, and also to the impact of the large number of Community laws which, particularly in the case of new EU members, had to be incorporated, implemented and interpreted correctly in a very short space of time, at every level of the domestic legal system.

The experience of constitutional courts in mature democracies such as Germany or Spain was largely similar to that of new members such as the Czech Republic, Hungary or Slovakia, but not identical given that the former had had more time to adapt.

To sum up, clearly European integration posed a major challenge in the legal field and required the new democracies to completely rethink their concept of law and their legal systems, and even, according to some, the status of judges who, it was argued, now had a duty of loyalty to the international institutions as well as to the constitution and domestic system from which their authority derived.

- **“Mini-conference” on Gender Equality, Budapest, 16 June 2006**

Within the framework of the 5th meeting of the Joint Council on Constitutional Justice, the Venice Commission organised a half-day mini-conference on gender equality. The liaison officers from the Supreme Court of Norway, the Court of Justice of the European Communities and the Constitutional Court of Slovenia presented the rich case-law of their courts on this issue. One topic raised in the discussion was the unbalanced composition of most of the constitutional courts themselves.

Finally, the legislation of Norway, which provides for the possibility of forcibly closing companies which do not achieve gender equality within their boards, raised controversial discussions.

- **Conference on the occasion of the 15th anniversary of the independence of the Republic of Moldova “Sovereignty and State Structure of Pluri-ethnic States” (Chişinău, Moldova, 22-23 September 2006)**

Upon the request of the President of the Constitutional Court of Moldova and on the occasion of the 15th anniversary of the independence of the Republic of Moldova, the Constitutional Court of Moldova and the Venice Commission organised, with the support of the German Foundation for International Legal Cooperation (IRZ), a conference on “Sovereignty and State Structure of Pluri-ethnic States” (Chişinău, 22-23 September 2006).

The reports and discussions concentrated on the definition of sovereignty, the relationship between the territorial integrity of states and the principle of self-determination, legal solutions to secessionist conflicts in general and the role of Moldova in fostering the resolution of the conflict in Transnistria in particular. In general, a specific territorial organisation (federalism, regionalism, autonomy), power sharing at the central level (with a bicameral parliamentary system being particularly suitable) and strong constitutional guarantees of minorities’ rights, are crucial for the stability of pluri-ethnic states.

It is an important challenge for pluri-ethnic states, especially when differences between various ethnic

groups are reinforced by economic inequalities, to foster a spirit of shared citizenship based on the effective participation of minorities in state structures. At the same time, a balance should be struck between the integration/assimilation of minorities and their autonomy. Democracy and respect for the rule of law provide tools to reconcile diversity and equality. The principles of territorial integrity and the right to self-determination should not be seen as contradictory, but rather in a balance with the former principle prevailing. As regards Transnistria, patient negotiations, the improvement of the economic and democratic development of Moldova and the strengthening of civil society in Transnistria were identified as conditions required for a possible resolution of this conflict.

- **IXth International Forum on Constitutional Justice on “Common Legal Space of Europe and Practice of Constitutional Justice” (Moscow, 26-28 October 2006)**

On the occasion of the 15th anniversary of the Constitutional Court of the Russian Federation, the Court, the Moscow Institute of Law and Public Policy and the Venice Commission organised a conference entitled “Common Legal Space in Europe and the Practice of Constitutional Justice”. The Conference took place in the framework of the Russian Presidency of the Committee of Ministers of the Council of Europe. In addition to local participants – from all branches of power

and academics – presidents and judges from some 30 foreign courts, from the Court of Justice of the European Communities and the European Court of Human Rights (represented by its President) participated.

The reports and discussions focused on the definition of a European common legal space and the factors of its consolidation as well as on its principal actors and their interaction. A crucial role in the creation of a common legal space in Europe is played by the national constitutional courts and European courts, such as the European Court of Human Rights. The harmonious application of the constitutions and the European Convention on Human Rights presupposes an exchange between national and European levels. The effectiveness of national constitutional practice can be further strengthened through monitoring at the European level.

- **International Seminar on “Guarantees for the Independence of Constitutional Judges” (Bucharest, 23-24 November 2006)**

The Constitutional Court of Romania and the Venice Commission organised the International Seminar on “Guarantees for the Independence of Constitutional Judges”, in which constitutional court presidents, judges and academics from 25 countries participated. The seminar was opened by the President of Romania, Mr Basescu, who highlighted the important role of constitutional

control and of the Constitutional Court of Romania in particular. Mr Vida, the President of the Constitutional Court of Romania, pointed out that his Court had to remain vigilant because its judgments had sometimes led to very negative reactions from other state powers.

In his opening speech, the Secretary of the Venice Commission, Mr Buquicchio, reminded the participating courts that the Commission had in the past taken action to support constitutional courts which were sometimes ‘punished’ by other state powers for refusing to appoint new judges, the non-execution of decisions, budget cuts and in rare cases even electricity cuts. The Venice Commission has in the past and continues to assist the courts in such situations through direct support, by awareness-raising seminars, but also by giving targeted opinions pointing out how to avoid such problems in the future. In two cases, the Venice Commission was even able to avert the outright abolition of constitutional courts.

The seminar enabled a number of aspects of the independence of constitutional courts and its members to be discerned and discussed, notably guarantees in the procedure of appointment of judges (like qualified majorities for election by Parliament), their term of office (long terms), qualifications, incompatibilities, irremovability and guarantees against dismissal, the duty of “ingratitude” or independence towards the appointing authority, judges’ immunities, but also the publicity of the work of the Court, collegiality and the possibility

for dissenting opinions, material guarantees (salary), judicial ethics as well as, finally, the budget of the court and the execution of its judgments, which are all related to its independence. It was also pointed out that the independence of the constitutional courts must not only be respected, but must also be 'seen' to be respected.

The participants agreed that there is not a single model applicable to each country but that gatherings, such as the present one, allowed the courts to exchange and thus to identify solutions to some of their problems.

- **Lisbon Forum 2006**
“Constitutionalism – the key to Democracy, Human Rights and the Rule of Law”
(Lisbon, 28-29 November 2006)

The Lisbon Forum 2006, organised by the North-South Centre and the Venice Commission, under the auspices of the San Marino Chairmanship of the Committee of Ministers of the Council of Europe, was held on 28- 29 November 2006 at the Portuguese Parliament in Lisbon.

The Forum brought together 100 participants, amongst whom were members of constitutional courts, parliaments, NGOs and the media, from both the North and the South.

The Forum focused on issues related to the characteristics and evolution of constitutional democratic systems from the North and the South, set within the broader framework of globalisation.

Participants discussed the role of different actors in reinforcing constitutional democracies, and in ensuring the balance between powers, the protection of freedoms and the promotion of democratic values.

The participants identified the challenges linked to democratic processes, recalling how the constitution acts as a fundamental framework for the consolidation of democracy and social transformation. The importance of the role of parliaments, political parties and civil society organisations was also underlined. Participants called for the reinforcement of the dialogue between Northern and Southern constitutional courts, as well as for the support of projects and initiatives aimed at promoting democratic values and the involvement of both NGOs and the media in this project.

- **Seminar on Communicating the Decisions of the Constitutional Court to the Public**
(Tbilisi, 1-2 December 2006)

The seminar enabled an exchange on the delicate subject of the relations of constitutional courts with the public. While a court traditionally “only speaks through its judgments”, it is more and more acknowledged that, even more than ordinary courts, constitutional courts have to communicate effectively their decisions to the public. As the “negative legislator” (Kelsen), the constitutional courts strike down legislation adopted by Parliament, which represents the sovereign people. The constitutional courts draw their legitimacy to

do so from the constitution and their special composition, but it remains necessary to explain their sometimes difficult decisions to the public in a way that make these understandable.

The expert on behalf of the Venice Commission, Ms Sabareanu, the Secretary General of the Constitutional Court of Romania, presented the experience of her Court in the relations with the media and the public in general. The Romanian Court has developed a standardised presentation of press releases, which can facilitate the understanding of complex constitutional and legal issues by the journalists who transmit their understanding of the decisions to the public at large.

- **Conference on “The Role of the Constitutional Court in the protection of the values enshrined in the Constitution: experience of the last decade and the prospect for development in Europe” (Riga, 8-9 December 2006)**

On the occasion of the 10th anniversary of the Constitutional Court of Latvia, the Court, the German Foundation for International Co-operation (IFZ) and the Venice Commission organised a conference on the “Role of the Constitutional Court in the protection of the values enshrined in the Constitution: experience of the last decade and the prospect for development in Europe”.

The conference focused on the experience of and developments made by the constitutional courts

in many European countries over the past decade. Notably, the difference in competences between constitutional courts, the criteria as well as the styles chosen to make decisions and the challenges faced in ratifying the European Convention on Human Rights and later, for some, accession to the EU.

The Venice Commission’s role in supporting the development of the Latvian Constitutional Court was highlighted by the Latvian organisers. As for future developments, the Latvian organisers suggested that any future amendments made to the Law on the Constitutional Court of Latvia should concentrate on the provisions dealing with the decisions on the acceptance and rejection of cases. These decisions are currently made by a panel of three judges (decided by majority) and cannot be appealed. An incoherence has come up where a certain type of case would be accepted by one panel and a similar case would be rejected by another panel. One of the suggestions made to solve this issue was to introduce the possibility for an appeal to be brought against such decisions.

3. Regional co-operation

The Venice Commission of the Council of Europe co-operates with constitutional courts and equivalent bodies in Europe, but also in Africa, the Americas and Asia. The Commission facilitates exchanges between the courts in order to promote democracy, the protection of human rights and the rule of law. The major means of this

co-operation is a common database presenting important constitutional case-law of the courts as well as seminars allowing for an active exchange between the courts.

- **Conference of European Constitutional Courts**

The European Conference, which was established in Dubrovnik in 1972 and unites 39 European constitutional courts or equivalent bodies, is a key partner of the Venice Commission in the endeavour to strengthen constitutional courts in Europe. The Venice Commission participated in the preparatory meeting in Vilnius on 7 and 8 September 2006. In June 2006, the Joint Council on Constitutional Justice of the Venice Commission already decided to prepare a working document on the topic of the XIVth Congress of the Conference, for which the theme “Legislative Omission in Constitutional Justice” was chosen in Vilnius. Upon a proposal from its Lithuanian presidency, the Conference adopted a special resolution on further friendly co-operation with the Venice Commission.

- **Association of Constitutional Courts using the French Language (ACCPUF)**

On 13-14 November 2006, the Commission participated in the 4th Congress of ACCPUF on “the jurisdiction of constitutional courts and equivalent bodies” and presented both its activities, especially in the field of regional co-operation with

constitutional courts, and the CODICES database of the Commission, to which ACCPUF had contributed a large number of decisions especially from African courts in 2006. The main advantage of this co-operation is that the courts and researchers can find information both from Europe and other continents (mostly in West Africa) in a single, coherent database. In addition, the single database avoids that courts, which co-operate both with ACCPUF and the Venice Commission, would have to contribute to two different databases using different standards.

- **Southern African Judges Commission (SAJC)**

The Southern African Judges Commission, established with the assistance of the Venice Commission, unites Chief Justices from 16 countries in the region. The Commission made the database CODICES available to the SAJC and co-organises the SAJC’s meetings.

Within the programme of co-operation with the Southern African Judges Commission (SAJC) funded by the Irish and Italian governments, the Venice Commission has organised a visit of the Chief Justices, members of the SAJC to Europe. The aims of the visit were to hold an exchange of views with the Venice Commission during its 66th Plenary Session (Venice, 17-18 March 2006) and to exchange views with the European Court of Human Rights (Strasbourg, 20 March 2006).

Exchange of views with the Venice Commission on the constitutional review in common law countries and countries with specialised constitutional courts during the 66th Plenary Session (Venice, 17-18 March 2006)

During the discussions, the advantages and disadvantages of centralised constitutional review were outlined. Specialised constitutional courts have the advantage of providing legal certainty as to the validity of legislation. The method of composition of the courts has to be balanced in order to give the court the necessary legitimacy to strike down acts of parliament. Drawbacks are an increase in the length of procedures and possible problems with ordinary courts. Mixed models deserve a more extensive analysis and could be the subject of a future study.

The participants noted that the exchange of views between Europe and Africa was a two-way street, they had much in common and things to learn from each other. For example, tensions between the judiciary and other branches of state power were common to many jurisdictions. Competences in the field of socio-economic rights were an interesting feature of African courts.

Four judges gave presentations followed by discussion on various aspects of the Convention, namely on private life v. freedom of the press, on the Convention and Criminal Law, on the right to cross-examine witnesses in criminal proceedings and on issues relating to Article 3 of the Convention. The participants agreed that such exchanges were useful and should be continued in the future.

4th Meeting of the Southern African Judges Commission on the Financial and Administrative Autonomy of the Courts and the Delicate Balance between Human Rights and National Security (Maputo, 10-11 August 2006)

Upon invitation by the Supreme Court of Mozambique and supported by the Venice Commission and the Government of Ireland, the Southern African Judges Commission held its 4th meeting in Maputo, Mozambique on 10 and 11 August 2006. Chief Justices and their representatives from Angola, Botswana, Kenya, Lesotho, Malawi, Mauritius, Namibia, the Seychelles, South Africa, Swaziland, Tanzania and Uganda participated in the meeting, which was opened by the President of Mozambique, Mr Guebuza.

The meeting dealt with two major topics: “the financial and administrative autonomy of the courts” and “the delicate balance between human rights and national security”. On behalf of the Venice Commission Mr Hamilton, Director of

Exchange of views with the European Court of Human Rights (Strasbourg, 20 March 2006)

Several judges of the European Court of Human Rights took part in the meeting, which was chaired by the Vice-President of the Court, Mr C.L. Rozakis.

Public Prosecutions of Ireland, contributed to the second topic from a European viewpoint.

The discussions on financial and administrative autonomy of the courts focused on the need to guarantee the smooth functioning of the administration of justice. The courts themselves know best their needs and can effectively allocate resources where they need them most. However, giving autonomy to the courts must not result in neglecting the government's responsibility for them. The funding of the courts is a task for the entire state and the country's budget must provide sufficient funds for the judiciary.

While there are cases when national security requires the limitation of human rights, in seeking a balance between national security and human rights, the judge will find that the latter carries such a weight that in most cases the balance will clearly swing towards its side.

The distinction between party interests and the higher interests of the country is a key element of constitutionalism. "National security" cannot be an argument to pursue the political objectives of the government. National security can only be that of the state, it cannot be the "security" of the ruling party.

The SAJC also adopted its "Guidelines on Addressing Issues of Concern among Member States of the Southern African Judges Commission", which are to enable the SAJC to assist courts under undue pressure from other state powers.

Visit of the Registrars of the Courts Members of the Southern African Judges Commission (Dublin, 27 November-1 December 2006)

In co-operation with the Irish Court Service, the Venice Commission organised a study visit for the Registrars of the courts members of the Southern African Judges Commission (SAJC). The Court Service arranged for meetings with judges and registrars/clerks of courts of all layers of the Irish judicial system: district, circuit, high and supreme courts. The participants attended several courts' hearings, visited the judges' library, met with the judges' researchers, visited the Irish Parliament and the office of the Attorney General; an on-hand IT session was also organised. In addition, two trainers were assigned to the group who accompanied them throughout the visit and, notably, gave useful tips as to methodology of retaining the information and of "back-home" briefing/training sessions.

• Network of Asian Constitutional Courts

The Venice Commission co-operates with the Network of Asian Constitutional (and Supreme) Courts, uniting courts in Cambodia, Indonesia, the Republic of Korea, Mongolia, the Philippines and Thailand [suspended following military coup]. These courts contribute to the CODICES database.

A delegation of the Commission participated in the Fourth Conference of Asian Constitutional Court Judges Constitutional on "Jurisdiction

between State, Culture and Religion – Striking the Right Balance” organised by the German Adenauer Foundation (Manila, 30 November-1 December 2006), which brought together the courts of the Network.

While the courts have not yet established themselves as a formal association or conference, they agreed to continue their co-operation with the Venice Commission, especially by contributing to the CODICES database.

- **Union of Arab Constitutional Courts and Councils**

At the 67th Plenary Session of the Commission, Mr Boualem Bessaih, President of the Constitutional Council of Algeria and Mr Mohamed Abdel Kader Abdallah, Vice-President of the Constitutional Court of Egypt and Secretary General of the Union of Arab Constitutional Courts and Councils informed the Commission about the Union, which was created in 1997 and unites courts from 13 member and 2 observer countries.

The seat of the Union is in Cairo. Its objectives are to promote co-operation and the exchange of ideas between the courts, to encourage research in the constitutional field and in particular in the human rights area and to establish contacts with similar organisations.

The delegation offered to establish co-operation with the Venice Commission based on exchanges in the field of documentation, mutual participation in meetings and seminars and possibly the joint organisation of seminars and conferences.

On 9-10 May 2006 a delegation of the Commission under its Vice-President Mifsud Bonnici visited the Constitutional Council of Algeria in order to discuss possible co-operation. On the basis of these discussions, representatives of the Council and the Union participated in a number of seminars in the CoCoSem series outlined above (Moscow, Lisbon and Bucharest).

- **Ibero-American Conference of Constitutional Justice**

The Conference brings together constitutional courts from Latin America as well as from Andorra, Portugal and Spain. On 25-27 October 2006, a member of the Secretariat participated in the 5th Ibero-American Conference of Constitutional Justice in Santiago de Chile and offered the Ibero-American courts the opportunity to contribute to CODICES. The courts were very open to co-operation and asked their Secretary General to discuss practical issues of the co-operation agreement with the Venice Commission.

IV. DEMOCRACY THROUGH FREE AND FAIR ELECTIONS¹

I. Country specific activities

- **Armenia**

Electoral reform

Co-operation between the Commission and Armenia on electoral reform, which began in 1997, continued in 2005.

In March 2006, the Speaker of the National Assembly of the Republic of Armenia presented the Venice Commission and the OSCE/ODIHR with an electoral reform package consisting of a hundred or so draft amendments to Armenian legislation. These draft amendments were assessed in the light of the latest joint opinions presented by the Venice Commission and the ODIHR. In June 2006, the Council for Democratic Elections (at its 17th meeting) and the Venice Commission (at its 67th Session) adopted a joint opinion of the Venice Commission and the OSCE/ODIHR on Armenia's draft electoral code, on the basis of comments by Mr Closa Montero, Mr Krennerich and Mr Pilgrim (CDL-AD(2006)026).

This opinion welcomed a number of improvements in the statutory framework for elections. Some of the amendments, however, while they might have positive effects in theory, required further clarification or needed to be evaluated in practice. There were still a number of unanswered questions with regard, for example, to modified deadlines, as well as the prosecution of electoral violations. The practice of marking voters' fingers with ink had not been introduced and other amendments could have ambivalent or negative effects, such as voter identity checks, the procedure for stamping ballot papers and inappropriate use of video cameras during elections. The joint opinion also made the point that some of the recommendations contained in earlier opinions had not been heeded by the authorities. Of particular concern were the procedures for filing appeals. The code, therefore, did not seem to provide the sound legal framework required for the settlement of disputes and protection of suffrage rights. The joint opinion stated that the main difficulties arising in the conduct of elections in Armenia were due to the way electoral legislation was implemented, something that was the responsibility of

1. The full text of all adopted opinions can be found on the website www.venice.coe.int.

the Armenian authorities and required commitment on the part of everyone involved in the electoral process. An opinion on the Armenian electoral code, as revised at the end of 2006, will be adopted by the Commission in 2007.

Request for an amicus curiae opinion on the compatibility of the presence of judges in electoral commissions with international standards

On 19 September 2006, the Constitutional Court of Armenia asked the Venice Commission for an opinion on the compatibility of the presence of judges in the electoral commissions with international standards. Mr Jean-Claude Colliard (member, France) prepared comments on this subject.

Request for an amicus curiae opinion on the compatibility of the law on political parties with international standards

On 19 September 2006, the Constitutional Court of Armenia asked the Venice Commission for an opinion on the constitutionality of the provisions of the law on political parties, whereby political parties were liable to be dissolved if they did not participate in two successive parliamentary elections or if they won less than one per cent of the votes. At its 69th Plenary Session, the Commission approved the comments made by Mr Carlos Closa Montero (member, Spain) on the subject (CDL-AD(2007)002). In particular, it was felt that the provisions on the dissolution of political parties lacked clarity and could present problems in the

light of Articles 10 and 11 of the European Convention on Human Rights.

• **Azerbaijan**

Electoral reform

Following the parliamentary by-elections in May 2006, the Azerbaijani authorities asked the Venice Commission to continue working with them to improve the electoral code, with particular emphasis on the composition of the electoral commissions and electoral disputes. A working group made up of representatives from the Venice Commission, the OSCE, IFES and government officials was set up and began discussions in December 2006.

• **Belarus**

Electoral legislation

In its Resolution 1496 (2006), the Parliamentary Assembly of the Council of Europe condemned the undemocratic conduct of the presidential election of March 2006 in Belarus, and invited the Venice Commission to make proposals on how to amend the Belarusian Electoral Code and address the malpractice of the administration in electoral matters. The Venice Commission's opinion, which was prepared jointly with OSCE/ODIHR, on the basis of comments by Ms M. Lazarova Trajkovska, Messrs O. Kask and J. Pilgrim, was adopted by the Council for Democratic Elections at its 18th meeting and by the Venice Commission

at its 68th Session (October 2006) (CDL-AD(2006)028).

The Venice Commission and OSCE/ODIHR noted that the most serious problems identified during previous reviews of the electoral legislation of Belarus persist. Therefore, the current text of the Electoral Code of the Republic of Belarus should be amended in accordance with international standards. Among the most important items which require improvement, one can note the composition of election commissions; the obstacles to candidacy; the articles relating to the verification of signatures; the regulation of alternative voting procedures such as the early voting or the use of mobile ballot boxes; the role of international and domestic observers; the transparency of the work of administrative bodies and courts; the electoral campaign and financing.

Moreover, the opinion underlines the importance of the establishment of a central register of voters; the right to vote should be given to persons in preventive custody and to those sentenced for less serious offences; the role of state or local political bodies in the electoral process, particularly the government's executive branch, should be limited. The principle of transparency in the work of the election administration at all levels should be strengthened and the possibility to appeal against decisions of electoral commissions should be provided.

The joint opinion noted that a major shortcoming in the conduct of the elections in Belarus had been

in the implementation of the electoral legislation. Good faith implementation of the electoral legislation and the will to hold a genuinely democratic and competitive vote remain crucial for the elections to be in conformity with the standards of the European electoral heritage including OSCE commitments.

The Venice Commission and OSCE/ODIHR hope that the authorities are ready to address these problems in order to bring Belarus towards complying with the principles of democracy, human rights and the rule of law. They are ready to provide Belarus with all needed support in its democratisation process.

• **Bosnia and Herzegovina**

Electoral reform

In February 2007, the Venice Commission received a request for an opinion on amendments to Bosnia and Herzegovina's electoral law. Comments have been drafted by Mr Sanchez Navarro (substitute member, Spain) but owing to the elections on 1 October 2006, and the debate on constitutional reform, the opinion has not been adopted yet. The matter is due to receive further consideration in 2007.

Legal advice during an election observation mission

In accordance with the agreement between the Parliamentary Assembly and the Venice

Commission, the Commission provided legal advice during the Assembly's mission to observe the elections on 1 October 2006. The Venice Commission advised the *ad hoc* committee on the possibility of amending the law in order to improve electoral practice; these recommendations have been included in the mission report and in the Parliamentary Assembly documents.

- **Croatia**

Electoral reform

The Croatian parliament examined a draft law setting up a permanent state election commission. This draft law was submitted for a joint expert evaluation by the Venice Commission and the OSCE/ODIHR, which had already taken part in two round tables (November 2004 and December 2005) on the administration of elections in Croatia. The joint opinion of the Venice Commission and the OSCE/ODIHR, based on comments by Mr Finn and Mr Torfason, was adopted by the Venice Commission at its 66th Session in March 2006 (CDL-AD(2006)012).

The Venice Commission considered that the draft law was generally clearly worded and reasonably comprehensive within its intended scope and that the creation of a permanent electoral body would allow the ongoing operation of programmes to enhance the electoral process. Some amendments to the draft law were needed, however, with regard, for example, to removal from office, the selection procedure, the length of office of

members of the state election commission, and the degree of legal authority and autonomy to be conferred on the said commission. The joint opinion further recommended clearly defining the relationships between the various electoral bodies.

Law on the direct election of mayors and heads of municipalities of Croatia

In February 2006, the Venice Commission received a request from the Central State Administration Office of Croatia to assist the authorities in working on the draft Law on the direct election of mayors and heads of municipalities. This co-operation included an exchange of views between the authorities and the Commission's expert Mr O. Masters, who travelled to Zagreb on 15 and 16 March 2006. Following this visit, the legislation on local elections of the executive bodies of Croatia was amended reflecting some of the comments and suggestions made by Mr Masters. However, it was advisable to introduce further amendments in order to bring this Law in line with international standards. Mr Masters' comments on the final proposal of the draft Law on direct election of County Heads, the Mayor of the city of Zagreb, mayors and the municipality heads of the Republic of Croatia were endorsed by the Venice Commission at its 69th Session of December 2006 (CDL-AD(2006)039).

Although the new text included some of the proposals made by Mr Masters, a number of provisions of the Law could be further improved,

notably concerning the check of the authenticity of signatures in support of a candidate; the use of mass media in pre-electoral campaigns; the reimbursement of campaign expenses; the procedure for the operation of polling stations; the rights of the observers, and the organisation of repeated elections.

- **Georgia**

Electoral reform

The Venice Commission's contributions to the Electoral Law of the Republic of Georgia date back to 2001. Since then, the latter has been amended many times between 2002 and 2006. Meanwhile, the expertise of the Commission was very useful through its comments and recommendations. The opinions adopted in 2006, which revise and comment the unified Election Code of Georgia, should be viewed as complementary to earlier comments and recommendations provided by the OSCE/ODIHR and the Venice Commission.

Following a request by the Parliament of Georgia, the Venice Commission, at its 66th Session (March 2006) and at its 67th Session (June 2006), adopted a Joint Opinion with OSCE/ODIHR on the Electoral Code of Georgia, as amended in December 2005 (CDL-AD(2006)023). A second Joint Opinion on the Code, as amended up to June 2006, was adopted by the Venice Commission at the 69th Session in December 2006 (CDL-AD(2006)037). Both opinions were adopted on

the basis of comments by Ms M. Lazarova Trajkovska, and Messrs B. Owen and J. Pilgrim.

The Code contains a number of positive features, in particular, with respect to transparency in the area of campaign finance; media provisions which establish basic conditions of equal access for candidates; the use of languages other than Georgian and inking of voters.

Even though the amendments of 2005 and 2006 attempted to address concerns with regard to the Electoral Law of Georgia, a number of previous OSCE/ODIHR and Venice Commission recommendations have not been taken into consideration, and areas of possible improvement remain. The current text of the Election Code has shortcomings, and some provisions have the potential to limit civil and political rights. As a result, it requires significant improvement to satisfy OSCE commitments and Council of Europe standards, as well as other international standards for democratic elections.

Areas for possible improvement include, *inter alia*, provisions of the Code related to the quorum, drawing of district boundaries, distribution of seats among the constituencies in parliamentary elections, electoral rolls, complaints and appeals, campaign finance provisions, cases and procedures for invalidation of elections. The composition formula and procedure for appointment of election commissions, recall of precinct election commission, the special role of the chairperson of an election commission, the number of signatures for

candidacy, campaign provisions and voting procedures, should also be reviewed.

Assistance to the Central Electoral Commission

The Venice Commission ran various activities to assist Georgia's Central Electoral Commission in 2006. Firstly, from 15 to 17 March 2006, a delegation from the Central Electoral Commission undertook a study visit to France, to look at how electoral rolls operated, at central and local/regional level. The working meetings focused on the following themes: the centralisation of election results; the centralised management of electoral data; managing electoral rolls in a large municipality; managing electoral rolls in a small municipality; electoral polls; e-voting and voting by French nationals abroad.

The Venice Commission then sent an expert, Ms Lidija Korać, former Chair of the Electoral Commission of Bosnia and Herzegovina, on three visits to Georgia to help the Electoral Commission plan the municipal elections scheduled for the autumn of 2006. On her first mission (25-26 May 2006), Ms Korać considered the following issues, with a view to making recommendations: electoral rolls, internal organisation, structure and operation of Georgia's Central Electoral Commission, information and awareness-raising campaigns and funding for the Central Electoral Commission's activities in planning and administering elections. The second mission took place on 27 and 28 July 2006 and yielded the following

conclusions: most of the recommendations in the first report had been taken on board, in particular the recommendations about expanding the legal department; the timetable of activities at the various stages of the electoral process had been prepared; co-operation with representatives of national minorities had been instituted, as too had co-operation with representatives of the political parties, NGOs and civil society in general. On her third visit (20-23 November 2006), the expert met with the Central Electoral Commission and representatives from NGOs and the political parties. Discussions focused on the lessons to be drawn from the local elections of 5 October 2006, conflicts of interests and strategic planning for the parliamentary and presidential elections in 2008. The visit produced recommendations concerning, *inter alia*, the need to restructure the staff of the Central Electoral Commission and clarify the responsibilities of its members, the need to provide training for electoral commissions, the practical measures required to make the electoral rolls more reliable and the need for follow-up activities to the 2006 local elections, in the light of the problems observed.

Legal advice during an election observation mission

At the request of the Congress of Local and Regional Authorities of the Council of Europe, the Council of Europe provided advice during the Congress's mission to observe the local elections on 5 October 2006. This was an opportunity for

the Venice Commission to actively assist the Congress by providing legal information to the Congress delegation, based on the Commission's opinions (CDL-AD(2005)042; CDL-AD(2006)023 – joint opinion with the OSCE/ODIHR).

- **Moldova**

Electoral reform

In recent years, Moldova's electoral system and code have been the subject of several recommendations concerning possible improvements, issued by the Venice Commission and the OSCE/ODIHR. The most comprehensive advice is to be found in the Joint Recommendations on the Electoral Law and the Electoral Administration in Moldova (CDL-AD(2004)027).

In July and November 2005, Moldovan law-makers approved a number of amendments to the Electoral Code along the lines of some of the joint recommendations made in 2004, as well as other changes arising from the domestic political debate or technical suggestions made by Moldova's Central Electoral Commission. In December 2005, the Commission asked the Secretariat to revise the joint opinion on amendments to Moldova's electoral code, in conjunction with the OSCE/ODIHR, to take account of the new amendments. An assessment of these recent amendments was made in the final version of the joint opinion on Moldova's electoral code by the Venice Commission and the OSCE/ODIHR (CDL-AD(2006)001), adopted by the Venice Commission at its 66th Session in

March 2006, on the basis of comments by Mr E. Polizzi and Mr Kåre Vollan.

The joint opinion noted that some amendments to the Electoral Code were based on earlier joint recommendations of the Venice Commission and the OSCE/ODIHR (CDL-AD(2004)027). Particular attention was drawn to the reduction in the thresholds for taking part in the allocation of seats in Parliament and the provisions amending the composition of the Central Electoral Commission and lower-level election commissions. Many of the recommendations made in the earlier opinions had gone unheeded, however, and there were problems with several of the new provisions. For example, the permanent cancellation of voting rights for persons sentenced to imprisonment was unacceptable. The Electoral Commission should ensure that special categories of voters, including students, military personnel and persons in hospitals or institutions, were effectively able to exercise their right to vote in all elections. The procedure for stamping ballot papers after they had been completed by voters created a serious risk of breach of the secrecy of the ballot and should be amended. The restrictions on the right to campaign should be brought into line with international instruments and domestic constitutional law. The Electoral Code should also establish clear rules for the submission, examination of and adjudication on requests for international and domestic observer accreditations.

Conference on electoral systems and procedures

At the invitation of Moldova's Central Electoral Commission, the Venice Commission took part in an international conference on "election systems and proceedings" in Chişinău on 11 and 12 May 2006. The Venice Commission was represented at the conference by Mr Matthias Catón, who spoke on the subject "better elections thanks to better electoral registers".

• **Montenegro**

Follow-up to the Commission Opinion on the Referendum Legislation

On 16 December 2005 the Commission had adopted its opinion on the compatibility of the existing legislation in Montenegro concerning the organisation of referendums with applicable international standards (CDL-AD(2005)041).¹ This opinion called for negotiations between the government and the opposition in Montenegro, to be facilitated by the European Union, in order to reach a consensus on the rules applicable to the referendum. On the very same day, High Representative Solana appointed a personal representative to facilitate such negotiations, Ambassador Lajčák from Slovakia. Ambassador Lajčák succeeded in brokering a consensus among the main political forces in Montenegro both on a special law applicable to

the independence referendum, dealing with issues such as the composition of the referendum commissions, campaign financing, the role of the media and referendum observation, and on the main issue of the majority required for independence. The Law required 55% of the votes cast for independence to be successful. This was in line with the Venice Commission opinion that there should be a clear majority for such an important decision, although from the Venice Commission's point of view, a requirement based on a percentage of registered voters would have been preferable. Politically, it proved however impossible to agree on a figure based on registered voters and therefore this solution was chosen.

As regards participation in the referendum, the Law followed the Venice Commission's recommendation to stick to the previous rules and not to give the right to vote to Montenegrin citizens living in Serbia. During his mission, Ambassador Lajčák maintained close contacts with the Venice Commission Secretariat and OSCE. Thanks to this negotiated solution, all political forces participated in the referendum.

Legal advice during referendum and election observation missions

In accordance with the agreement between the Parliamentary Assembly and the Venice Commission, the Commission provided legal advice during two Assembly missions, one to

1. See Annual Report for 2005.

observe the referendum on 20 May 2006 and the other to observe the elections on 9 September 2006. In particular, it assisted the Assembly delegation the day after the referendum, when the results were disputed and officials from the electoral commissions refused to pass on the results.

- **Serbia**

Recommendations on electoral law and electoral administration

In March 2006, joint recommendations on electoral law and electoral administration in Serbia were adopted by the Venice Commission at its 66th Plenary Session (CDL-AD(2006)013), on the basis of comments by Mr Pilgrim and Mr Torfason.

Although it contained a large number of safeguards to encourage democratic electoral practice, Serbia's electoral legislation posed a number of problems and displayed some shortcomings in relation to established European electoral practice.

The OSCE/ODIHR and the Venice Commission recommended amending the law on parliamentary elections in order, for example, to create an interim level of electoral commissions, to guarantee the rights of international and domestic non-partisan observers, to tighten the rules on the compilation and management of voter lists and also the procedures for authenticating voters' signatures. The joint opinion also called for some

improvements with regard to campaign finance, equal access to the media, voter identity checks, mobile voting, the publication of detailed results of ballots and protection of suffrage rights. Also, parties should not be allowed to decide after election day which candidates were to be awarded mandates.

The law on presidential elections had numerous shortcomings. Certain provisions required more detail and clarification, in particular as regarded the procedures to be followed if only one candidate were nominated, recall and "unsuccessful" elections. The law on local elections displayed virtually the same shortcomings and failures as the two laws mentioned above. The OSCE/ODIHR and the Commission recommended ensuring a greater degree of political pluralism and multi-ethnic representation in the membership of election administration bodies and addressing issues such as the allocation of seats and recall elections.

- **"The former Yugoslav Republic of Macedonia"**

Electoral reform

Following a request for opinion by the Minister of Justice in November 2005, the Venice Commission adopted, at its 66th Plenary Session (March 2006), a joint opinion on the draft Electoral Code of "the former Yugoslav Republic of Macedonia" (CDL-AD(2006)008). Following enactment of the new Electoral Code and its publication in the Official Gazette on 31 March, a new joint opinion was

adopted by the Council for Democratic Elections at its 17th meeting, and by the Venice Commission at its 67th Plenary Session (June 2006) (CDL-AD(2006)022), on the basis of comments by Messrs D. P. Finn, O. Kask and K. Vollan.

The draft Law, previously reviewed by the Venice Commission and OSCE/ODIHR, already contained improvements to the legal framework and it avoided repetition and possible discrepancies in electoral procedures. Female representation in electoral boards was highly welcome.

The new Electoral Code provides a better integrated and unitary legislative framework for the administration of elections. The Code makes numerous improvements in the provisions currently included in the main election laws, including the Laws on the Election of Members of Parliament, on the Election of the President, and on Local Elections. In addition, other election-related laws, such as those on the Voters' List, Polling Stations and Election Districts (for parliamentary elections) have been incorporated into the Code in a revised form.

Many of the provisions revised correspond to comments previously made on the draft Code and are most welcome.

The new Code addresses several of these issues in such a way as to result in a major transformation of the electoral administration. In particular, the Code replaces the combination of judges and political party representatives in election bodies at all levels with reliance on selected professionals

and civil servants and other public workers, chosen randomly.

Enactment of the Electoral Code will help to avoid redundancies and possible discrepancies in legislative provisions. Even so, a number of provisions could nonetheless be improved especially with respect to legal drafting and methodology. The Code includes some articles which would be more appropriate in the Constitution, while other provisions (such as those concerning the detailed responsibilities of electoral commissions) might be better left to the level of regulations.

The Code would make it clear that the State Electoral Commission and Municipal Election Commissions have the responsibility to supervise the work of subordinate electoral bodies. It is hoped that this will prompt the commissions to take a more proactive approach to addressing irregularities.

Nevertheless, the review identified significant uncertainties and concerns about a range of matters – including the composition of electoral bodies, language issues, regulation of the campaign and responsibility for the voters' lists.

The State Electoral Commission's regulatory authority should concern the entire electoral process, including areas related to the election campaign. Electoral commissions should operate in a public manner, which is accessible to list submitters and accredited observers. Electoral commissions, particularly the State Electoral Commission, should be granted the power to

impose administrative sanctions against subordinate election officials who have been involved in electoral irregularities. The State Electoral Commission should use its supervisory authority to fashion constructive remedies to problems in election administration and the procedure for complaints and appeals should be made more flexible.

The members of election bodies should not be removed prior to the end of their term, except for demonstrated cause established through appropriate proceedings; voter information and education materials should be made available in all languages used by constitutionally-recognised minorities; the relevant authorities should ensure that minority voters are able to have their voter registration recorded also in their own language.

While the Code will help safeguard the rule of law and democratic governance of elections, the adoption of electoral legislation should be watched closely to prevent political parties amending it in their favour before elections. The stability of electoral law is of great importance, particularly in a pre-election period.

Legal advice during an election observation mission

In accordance with the agreement between the Parliamentary Assembly and the Venice Commission, the Commission provided legal advice during the Assembly's mission to observe

the parliamentary elections in "the former Yugoslav Republic of Macedonia" (5 July 2006).

Round table on "the new electoral code and the relevant legislation in view of upcoming elections"

On 15 and 16 May 2006, the Venice Commission co-organised a round table on "the new electoral code and the relevant legislation in view of upcoming elections", with the Council of Europe's Directorate General of Legal Affairs. This activity was conducted under the programme co-financed by the European Commission, called the "Programme against corruption and organised crime in South-eastern Europe" (PACO). Speaking on behalf of the Venice Commission, Mr André Kvakkestad emphasised the need to regulate election campaign finance and any conflicts of interest that might arise in the run-up to elections.

Training workshop

On 21 and 22 June 2006, the Venice Commission ran a workshop for those responsible for training polling station staff, in association with the State Electoral Commission of "the former Yugoslav Republic of Macedonia". Ms Mirjana Lazarova Trajkovska, member of the Venice Commission, and Mr Owen Masters, expert on elections, spoke at the workshop, where 64 participants received training in preparation for the election on 5 July 2006. Other experts and members of the State Electoral Commission were among the

speakers and there were six sessions in all, including a simulated ballot.

- **Ukraine**

Electoral reform

In April 2005, the Ukrainian Minister of Justice requested a joint expert opinion from the Venice Commission and the OSCE/ODIHR on the law of 7 July 2005, amending the law on the election of people's deputies in Ukraine, originally adopted in March 2004. At its 66th Session in December 2005, the Commission approved the final version of the joint opinion prepared by the OSCE/ODIHR and the Venice Commission (CDL-AD (2006) 002 rev), on the basis of comments by Mr J. Pilgrim, Mr J. Middleton, Mr A. Sanchez Navarro and Mr T. Annus. This opinion was an extension of the Venice Commission's earlier work on electoral law reform in Ukraine.

On 25 March 2004, the Ukrainian parliament adopted the law on the election of people's deputies in Ukraine, which superseded the law that had been in force since 2001. On 7 July 2005, the parliament adopted a new law on the election of national deputies, amending the 2004 law. The new law was to be ready in time for the parliamentary elections in March 2006. At its session in December 2005, the Commission authorised the Secretariat to revise the said opinion in the light of the amendments relating to the media and to forward the revised text to the Ukrainian

authorities. In March 2006, the Commission approved the final opinion.

The final joint opinion noted that the new law adopted in 2005 was considerably more detailed than the 2004 law. A number of new rules had been introduced and many of the existing rules had been expanded. Some of these changes gave rise to proposals from the OSCE/ODIHR and the Venice Commission. In particular, the text of the law improved regulations on the composition of the election commissions, the organisation of polling stations, the election campaign, the use of the mobile ballot box, the use of absentee voting certificates and the status of domestic non-partisan observers.

However, the law still overregulated some areas of electoral administration and a number of its provisions remained controversial. Some specific provisions, such as the restrictions imposed on the media when covering election campaigns and sanctions for the violation of election campaign rules, might not be in line with the Council of Europe's standards in the field of freedom of expression. The Ukrainian parliament should in the future also assess whether the combination of various electoral rules into a single electoral code would be feasible. There was a large element of repetition in the different laws regulating different types of elections. At the same time, discrepancies in procedures were liable to occur due to the complex and extensive nature of those rules. Such inconsistencies should be avoided if at all possible.

Further to this opinion, the Venice Commission agreed with the OSCE mission in Kyiv to work together more closely in implementing a programme to draw up a single electoral code.

Legal advice during an election observation mission

In accordance with the agreement between the Parliamentary Assembly and the Venice Commission, the Commission provided legal advice during the Assembly's mission to observe the parliamentary elections in Ukraine (26 March 2006). The Venice Commission advised the *ad hoc* commission on the possibilities of amending the electoral legislation so as to improve electoral practice; these recommendations have been included in the election observation report and in the Parliamentary Assembly documents.

2. Transnational activities

• Declaration on women's participation in elections

Following the adoption of the Venice Commission's comments on Parliamentary Assembly Recommendation 1676 (2004) on women's participation in elections, the Committee of Ministers invited the Commission to consider whether the relevant provisions of the Code of Good Practice in Electoral Matters dealing with electoral equality could be strengthened or supplemented to take account of some of the proposals made by the

Assembly. Following discussion, the Venice Commission decided to make three amendments to the text, one of which incorporated the Parliamentary Assembly's proposal on family voting. The others concerned gender parity.

At its 67th Session in June 2006, the Commission adopted the declaration on women's participation in elections (CDL-AD(2006)020) on the basis of contributions by Mr Luchaire and Ms Suchocka, and decided to forward it to the Council of Europe's Committee of Ministers.

• Revised election evaluation guide

The revised election evaluation guide (CDL-AD(2006)021) was adopted by the Council for Democratic Elections at its 17th meeting and by the Venice Commission at its 67th Session (June 2006), on the basis of a contribution by Mr C. Casagrande, and forwarded to the Parliamentary Assembly and the Congress of Local and Regional Authorities of the Council of Europe.

Monitoring and evaluating elections is a hard, demanding task for observers who bear considerable responsibility vis-à-vis both the organisation they represent and the country which invites them to perform an observation mission.

At the time of the ballot, national authorities thus wish to show that the electoral process is bona fide and in compliance with international standards, in particular those laid down in the Venice

Commission's Code of Good Practice in Electoral Matters.¹

The revised election evaluation guide covers the essential points that form the basis of universal, equal, free, secret and direct suffrage. From a practical standpoint, the guide is divided into three parts corresponding to three stages: before polling day, polling day and after polling day.

Before polling day, knowledge of the political context, electoral law and practical arrangements laid down for the conduct of elections is a precondition for strict, impartial observation that respects national sovereignty.

Knowledge of electoral law should include information about the electoral rolls, candidatures, the preparation of on-the-spot observations with a view to organising the poll, the bodies monitoring the election procedure and the election campaign.

On *polling day*, the purpose of the observation mission is to establish that local law is properly applied. Observers have two questionnaires:

1. observation of polling stations during voting: this questionnaire was compiled jointly by the Venice Commission and the OSCE/ODIHR. It is designed to place the observations on a more formal footing;
2. post-voting operations: the aim of this questionnaire is to evaluate compliance with the law when counting the votes, announcing the

results, checking the validity of ballot papers, etc.

After the poll, the observation mission must evaluate the centralisation and declaration of the results, possible appeals, the various factors that may have influenced voting on polling day and the general atmosphere the day after voting. One of the problems frequently encountered when observing elections concerns the time taken to officially announce the results.

To sum up, the observation mission must always assess whether the elections were held in accordance with the democratic criteria laid down in the "Code of Good Practice in Electoral Matters" and make recommendations to the national authorities.

• **Report on electoral law and electoral administration in Europe**

The main objective of the study on electoral law and electoral administration in Europe was to identify the recurrent challenges and weak points in electoral legislation and electoral administration in Europe with reference to international standards and good practice in electoral matters. The report, which was the culmination of the joint programme with the European Commission "democracy for free and fair elections", was adopted by the Council for Democratic Elections at its 17th meeting and by the Venice Commission

1. The first version of the election evaluation guide dated from 2003 (CDL-EL(2003)001 rev).

at its 67th Plenary Session (June 2006), on the basis of comments by Mr M. Krennerich (CDL-AD(2006)018). Mr Krennerich's study focused on states to which the Council of Europe had made recommendations in electoral matters or to which it had recently sent election observation missions.

In most Council of Europe member states, elections and referendums were conducted satisfactorily and in accordance with international standards. However, there were a number of countries in which the electoral legislation and electoral administration faced serious problems and fell far short of democratic standards, according to international observers and experts from the Venice Commission.

Although much progress had already been made, there was still substantial room for improvement in regard to both electoral legislation and administration in a number of countries. According to the report, the main areas in which improvements could be made were as follows: enhancing the independence, professionalism and legitimacy of electoral administration; ensuring fair and equal conditions for the political contestants in the pre-election period; improving voter registration and voting procedures; paying more attention to the post-election period and, lastly, protecting women's and minority rights.

While, however, there might be a need to fill loopholes in the law, what was primarily required was a review of the election legislation as a whole, with the aim of clarifying and simplifying complex

provisions as well as removing inconsistencies and unnecessary repetitions. The Venice Commission believed that proper implementation of electoral law hinged on the will and the commitment of the electoral authorities and other election stakeholders. Much remained to be done in this area in order to build a culture of respect for the law and democratic procedures in some countries. Intensive training for the staff responsible for elections at every level and comprehensive programmes to educate voters could help build support for democratic elections.

In view of the insufficient implementation of and respect for electoral law and the severe problems in regard to the election administration process in several countries, it might be appropriate to oblige the various electoral bodies to provide a post-election report after each election and referendum. Such reports might indicate problems in applying the law and in administering the elections or referendums, and suggest measures to overcome these problems. They could also include an analysis of electoral violations and of action taken against violators.

- **Guidelines on the holding of referendums**

Following a request by the Parliamentary Assembly, the Venice Commission adopted at its 68th Plenary Session (October 2006) guidelines on referendums, as amended by the Council for Democratic Elections at its 18th meeting, on the basis of

contributions by Messrs P. Van Dijk, F. Luchaire and G. Malinverni (CDL-AD(2006)027rev).

Generally, these Guidelines summarise common European standards to be applied in the field of referendums. They are based on the 2001 Code of Good Practice in Electoral Matters (CDL-AD(2002)023rev). They retain its rules, including the underlying principles of the European electoral heritage as well as the conditions for implementing these rules, as long as they are applicable to referendums, *mutatis mutandis*.

First of all, the holding of a referendum should comply with international principles related to universal, equal, free and secret suffrage.

Secondly, in order to implement the above principles, certain conditions must be met: before conducting referendums, fundamental human rights must be respected and the legislation on referendums should be stable. During the referendum, some procedural guarantees must be ensured. These cover the organisation of the referendum by an impartial body; the wide opportunity given for both national and international observers to participate in a referendum observation exercise; an effective system of appeal, and the possibility of private and public funding.

Thirdly, some specific legal rules must be respected. These specific rules include: respect of the legal system as a whole, and especially of the procedural rules; rules on the procedural validity of texts – unity of form, unity of content and unity of hierarchical level –; rules on the substantive validity

of texts submitted to referendum – including the principle of the hierarchy of norms. More detailed recommendations are made regarding referendums held at the request of a section of the electorate and popular initiatives, in particular concerning gathering and checking of signatures. The guidelines also develop the issues of the limits to the revision of decisions taken by referendum without a popular vote, the opinion to be given by Parliament, the quorum (which is not advisable) and the effects of referendums.

Following its adoption by the Council for Democratic Elections at its 19th meeting (December 2006), the whole Code of Good Practice on Referendums, including an introduction and an explanatory memorandum, should be adopted by the Venice Commission in 2007.

Further to its adoption by the Venice Commission, the Code of Good Practice on Referendums will be submitted for approval to the Parliamentary Assembly, the Congress of Local and Regional Authorities and the Committee of Ministers of the Council of Europe. It should form the basis for the assessment of referendum laws and be used by the Council of Europe bodies when observing referendums.

- **Specific rules on the voting rights of national minorities**

At its 18th meeting (October 2006), the Council for Democratic Elections examined a document on the dual voting rights of persons belonging to

national minorities, prepared by the Office of the OSCE High Commissioner on National Minorities. Discussions will resume in 2007 based on a revised report by the OSCE High Commissioner.

- **Secrecy of the vote in the context of parliamentary procedure**

Following a request from the Parliamentary Assembly's Monitoring Committee, a draft questionnaire on secrecy of the vote in the context of parliamentary procedure was drawn up on the basis of comments made by Mr D. Chagnollaud. At its 16th meeting (March 2006), the Council for Democratic Elections adopted the questionnaire on secrecy of the vote in the context of parliamentary procedure, on behalf of the Venice Commission (CDL-EL(2006)004rev2).

The draft questionnaire was divided into three questions: first whether there is a constitutional and/or legislative provision of a general nature which guarantees secrecy of the vote in a specific country; second, which elections take place in Parliament, and third, cases of violations of secrecy of vote, in the framework of elections by Parliament.

- **Request for opinion on the Convention on the standards of democratic elections, electoral rights and freedoms in the member states of the Commonwealth of Independent States**

The Secretary General of the Council of Europe asked the Venice Commission for an opinion on the Convention on the standards of democratic elections, electoral rights and freedoms in the member states of the Commonwealth of Independent States, of 7 October 2002. This opinion will be adopted in 2007.

- **UniDem Seminar on "The pre-conditions for a democratic election" (Bucharest, 17-18 February 2006)**

Under the UniDem programme (Universities for Democracy), the European Commission for Democracy through Law held a seminar in Bucharest on 17 and 18 February 2006, on "The pre-conditions for a democratic election". This seminar was organised during the Romanian Chairmanship of the Committee of Ministers of the Council of Europe, in association with the Romanian Ministry of Foreign Affairs. It is part of the joint programme between the European Commission and the Venice Commission entitled "Democracy through free and fair elections".

The aim of the event, involving members of central electoral commissions, academics, politicians, representatives of civil society and international organisations, was to show that elections were not a one-day affair, but needed to be viewed in context. Genuinely democratic elections were possible only if a number of pre-conditions were met, such as respect for fundamental rights, balanced access to the media and funding, organisation of the ballot by an impartial body and existence of an effective appeals system.

Apart from these last two, the seminar addressed all the issues that needed to be resolved before the election if it were to be conducted properly. Combining national and international perspectives, the report focused on respect for fundamental rights, in particular freedom of expression, assembly and association; access to the media as a pre-condition for democratic elections; methods for media analysis in election observation; financing of electoral campaigns; issues to be addressed during long-term observation missions; the financing of political parties and election campaigns in Romania; campaign financing and media access regulation for referendums; the chances of an election being free and fair: how to assess the pre-conditions for a democratic election.

The seminar proceedings have been published as part of the “Science and technique of democracy” collection (No. 43).

- **European Conference of Electoral Management Bodies (Moscow, 22-23 May 2006)**

The “Third European Conference of Electoral Management Bodies – Development and codification of international standards in the field of elections” was organised by the Venice Commission in co-operation with the Central Electoral Commission of the Russian Federation in Moscow on 22–23 May 2006. This activity was one of the first events organised in the framework of the Russian chairmanship of the Committee of Ministers of the Council of Europe. The issues which were addressed during the conference included the development of electoral standards by international organisations and their implementation in the different Council of Europe member States, the impact of new technologies on the electoral process and the security of transmitting the results as well as the role which disseminating information on the electoral process plays in increasing voters’ participation.

During the conference, participants invited the member States of the Council of Europe to respect and implement the international obligations and commitments by which they are bound and to follow the recommendations of the Code of Good Practice in Electoral Matters of the Venice Commission of the Council of Europe. The recent developments on e-voting in different countries (including its observation) were discussed and a fruitful exchange of views was held on various

ways to increase voters' participation including the participation of groups of persons with traditionally low participation, for example, minorities and persons with special needs.

- **VOTA – The Venice Commission's electoral database**

The VOTA database was set up as part of the joint Venice Commission and European Commission programme "Democracy through Free and Fair Elections" in 2004. It contains the electoral legislation of the Venice Commission member States and other states involved in the Commission's work. Over 80 laws and statutes from about 40 states, as well as a number of Venice Commission opinions are already available in the database, in English and French.

3. Activities relating to political parties

- **Croatia: Financing of political parties**

In August 2006, the OSCE mission to Croatia and the Central State Administration Office of Croatia invited the Venice Commission to prepare an opinion and to attend the round table on the draft Law on the Financing of Political Parties before its submission to the Parliament for the first reading. The Round Table took place in the Croatian Parliament in September 2006. At its 68th Session (October 2006), the Commission endorsed the

comments made by Mr H.-H. Vogel on the Law on the financing of political parties in Croatia (CDL-AD(2006)031). As the opinion was required urgently, it had already been sent to the authorities.

The draft Law provided a sound framework for regulating the financing of political parties in Croatia and was broadly consistent with Council of Europe standards. There were still, however, some points which were unclear and needed amending, in particular as regarded the use of financing derived from sources other than membership fees and donations, and the scope of the special tax regime for political parties. With regard to financial records, it could be argued that it is necessary to strike a reasonable balance between secrecy and transparency. Some provisions regarding the regulation of financing of electoral campaigns should be introduced into the Law, unless the matter has already been regulated by another piece of legislation.

- **Opinion on the prohibition of financial contributions to political parties from foreign sources**

In December 2005, the European Court of Human Rights asked the Venice Commission for an expert opinion on the question of political parties receiving financial contributions from abroad.

At its 66th Session in March 2006, the Venice Commission adopted the opinion on the prohibition of financial contributions to political parties

from foreign sources (CDL-AD (2006) 014), prepared on the basis of comments by Mr Lapinskas and Mr Vogel and forwarded it to the European Court of Human Rights.

Research conducted by the Commission showed that 28 member states of the Council of Europe prohibited or substantially limited foreign donations to political parties, and that 16 did not impose any such restrictions.

With regard to the different approaches in member states to the problem of the financing of political parties in general, there was no one answer to the question to what extent the prohibition of a foreign political party financing a political party could be considered “necessary in a democratic society”. Some of the new democracies in central and eastern Europe justified restrictions on foreign financing, arguing that it could lead to distortions of the electoral process. Long-standing legislative decisions imposing too many restrictions on political parties – taken between the world wars and during the Cold War – needed to be reviewed in the light of the situation in Europe as it had developed over the last 15 years. With regard to the European Convention on Human Rights, the mere fact that there were financial relations between political parties could not, in itself, justify a reduction of human rights protection.

There could be a number of reasons for prohibiting contributions from foreign political parties. Such prohibition might be considered necessary in a democratic society, for example, if financing from

foreign sources were used to pursue aims not compatible with the Constitution and laws of the country, if it posed a threat to national territorial integrity or inhibited effective democratic development.

The Venice Commission concluded that in each individual case where financing from foreign sources was restricted, due account needed to be taken of the political and economic situation and national interests of the state concerned. In order to establish whether the prohibition of financing from abroad was problematic in the light of Article 11 of the European Convention on Human Rights, each individual case had to be considered separately in the context of the general legislation on the financing of parties, and of the state’s international obligations, including those arising from membership of the European Union. Consideration also needed to be given to the risk of tax evasion. Registering donations was one possible answer to this problem.

- **The participation of political parties in elections**

At its 11th meeting in December 2004, the Council for Democratic Elections decided to look at the participation of political parties in the electoral process. The report on the participation of political parties in elections (CDL-AD(2006)025), based on comments by Mr A. Sanchez Navarro and Mr H.-H. Vogel, as well as on some remarks provided by members of the Council for Democratic Elections, was adopted by the latter at its

16th meeting (March 2006) and by the Venice Commission at its 67th Plenary Session (June 2006).

Over the past few years, the Venice Commission has adopted several guidelines and opinions on legislation on political parties. It notes that Council of Europe member states have different approaches to the regulation of political parties' activities and their participation in political life, notably in elections. However, there are some common trends and concerns as to the equality of different forces seeking political representation, party financing and various aspects of the internal operation of parties.

Defining a set of common standards is possible in a number of areas, in particular rules for the nomination of candidates for different elections,

equal treatment of different parties and individual candidates competing in elections; possibility to have observers present throughout the elections; transparency in campaign financing and accountability of parties for the different resources used; equal access to the media; effective complaints and appeals system which provides for a speedy procedure for the settlement of different disputes throughout the electoral process and compliance with the principle of proportionality in case of sanctions.

The Venice Commission hopes that further co-operation between Council of Europe member states in these areas will contribute to the development of common standards concerning the role of political parties, thus leading to better electoral practice in Europe.

V. CO-OPERATION BETWEEN THE COMMISSION AND THE STATUTORY ORGANS OF THE COUNCIL OF EUROPE, THE EUROPEAN UNION AND OTHER INTERNATIONAL ORGANISATIONS

I. Council of Europe

• Committee of Ministers

Representatives of the Committee of Ministers participated in all the Commission's plenary sessions during 2006. The following ambassadors attended the sessions during 2006:

Mr Stephen Howarth, Permanent Representative of the United Kingdom; Mr James A. Sharkey, Permanent Representative of Ireland; Mr Pietro Lonardo, Permanent Representative of Italy; Mr Neris Germanas, Permanent Representative of Lithuania; Mr Peteris Karlis Elferts, Permanent Representative of Latvia; Mr Wendelin Ettmayer, Permanent Representative of Austria; Mr Ivan Petkov, Permanent Representative of Bulgaria; Mr Yevhen Pereygin, Permanent Representative of Ukraine;

Ms Eleonora Petrova-Mitevaska, Permanent Representative of "the former Yugoslav Republic of Macedonia" and Sladjana Prica, Permanent Representative of Serbia.

Different subjects were raised by the representatives of the Committee of Ministers, including the draft Memorandum of Understanding between the European Union and the Council of Europe and its

implications for the Commission, the Forum for the Future of Democracy, the work of the Committee of Ministers' rapporteur group on democracy (GR-DEM) and the work of the Venice Commission in the Balkans and Ukraine.

The Committee of Ministers asked the Venice Commission to prepare reports on the civilian control of armed forces and on democratic oversight of intelligence services. The Venice Commission established working groups to prepare both reports, which will be adopted in 2007.

• Parliamentary Assembly

Mr Schieder attended all the sessions of the Commission in 2006, Mr Jurgens the sessions of the Commission in March, June and October, Mr van den Brande the June Session and Ms Leutheusser-Schnarrenberger the December Session.

The representatives of the Parliamentary Assembly informed the Commission about activities of the Parliamentary Assembly of particular interest to the Commission, including on alleged secret detention centres in Council of Europe member States, the plan to set up an EU Fundamental Rights Agency, the monitoring of commitments by the

Parliamentary Assembly, the Assembly's intention to organise an annual debate on the state of human rights and democracy in Europe, implementation of the judgments of the Court, the ratification of the Framework Convention for the Protection of National Minorities and the institutional balance within the Council of Europe.

A number of opinions were provided at the request of the Parliamentary Assembly, including the opinions on the international legal obligations of Council of Europe member States in respect of secret detention facilities and inter-States transport of prisoners, the opinion concerning the protection of human rights in emergency situations and the opinion on the electoral legislation of Belarus.

Two representatives of the Commission, Mr Kaarlo Tuori, member for Finland, and Mr Anthony Bradley, substitute member for the United Kingdom, were asked by the Parliamentary Assembly to prepare the report on the conformity of the legal order of the Republic of Montenegro with Council of Europe standards.

The Parliamentary Assembly continued to participate actively in the Council for Democratic Elections, established in 2002 as a tri-partite body of the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe (see Part IV above). The Council for Democratic Elections was chaired by a member of the Parliamentary Assembly, Mr van den Brande, and a number of activities of

the Council were initiated by the representatives from the Parliamentary Assembly. In accordance with the co-operation agreement concluded between the Venice Commission and the Parliamentary Assembly, Venice Commission representatives participated in a number of election observation missions of the Assembly.

- **Congress of Local and Regional Authorities**

The Congress was represented at the June, October and December plenary sessions of the Commission by Mr Keith Whitmore, at the October Session by Mr Ian Micallef and at the March and December sessions by Mr Alain Delcamp. The Congress continued to participate actively in the Council for Democratic Elections, established in 2002 as a tri-partite body of the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe (see Part IV above).

- **European Court of Human Rights**

The opinion on the prohibition of donations to political parties from foreign sources (CDL-AD(2006)014) was adopted at the request of the European Court for Human Rights.

- **Forum for the Future of Democracy**

The Venice Commission participated in the Forum for the Future of Democracy on "The Role of

Political Parties in the Building of Democracy”, which was held in Moscow on 18-19 October 2006. Indeed, the Commission’s work in this field is regarded as fundamental and has definitely contributed towards achieving common standards.

- **North-South Centre**

In 2006, the Venice Commission co-organised the Annual Forum of the North-South Centre of the Council of Europe on the topic “Constitutionalism – the key to Democracy, the Rule of Law and Human Rights” (Lisbon, 28-29 November 2006). Discussion focused on parliamentary control of the executive in parliamentary and presidential systems, constitutional justice as an effective guarantee for constitutionalism and the role of civil society for safeguarding constitutionalism.

2. European Union

In his report on relations between the Council of Europe and the European Union, Prime Minister Juncker states: “For my part, I feel that co-operation with the Venice Commission should eventually be formalised by the EU’s officially acceding to it.”

The Venice Commission assisted Ambassador Lajčák, Special Envoy of High Representative Solana, in his successful efforts to reach an agreement between majority and opposition in Montenegro on the conditions for the referendum on the independence of the country.

The Venice Commission is taking part in the Joint Programme of Co-operation between the European Commission and the Council of Europe to promote the democratic process in Ukraine and South Caucasus, more specifically through activities in the electoral field in Georgia and Ukraine.

The European Commission concluded in December 2006 a Joint Programme with the Venice Commission on Constitutional Assistance for Kyrgyzstan and Kazakhstan.

3. OSCE

During 2006 the Venice Commission continued its close co-operation with OSCE/ODIHR in electoral matters, in particular through the drafting of opinions on the electoral legislation in Armenia, Croatia, Georgia, Serbia and “the former Yugoslav Republic of Macedonia”. More details on this co-operation are provided in Part IV above.

The Venice Commission continued its co-operation with ODIHR on joint guidelines to assess legislation in the area of fundamental freedoms. While this concerned freedom of assembly in 2005, the focus in 2006 was on freedom of religion. On 5 December 2006, Venice Commission representatives (Ms Flanagan and Mr Vogel) and the ODIHR’s Advisory Panel of Experts on Freedom of Religion or Belief met to discuss co-operation practices. Having discussed the respective *modus operandi* of the Venice Commission and the Advisory Council with the aim of making better use of opportunities

for co-operation in the future and in view of the common goal of pre-empting “forum shopping”, they agreed upon exchanging information about requests for opinions on legislative projects pertaining to Freedom of Religion or Belief. They also decided to co-ordinate country visits with the aim of holding such visits jointly, to develop a mechanism of producing joint opinions and/or recommendations on legislative projects pertaining to Freedom of Religion or Belief, and finally to involve the Advisory Council’s members and the Venice Commission’s members in their respective meetings.

The Venice Commission co-operated with OSCE/ODIHR and the OSCE Centre Bishkek on constitutional assistance to Kyrgyzstan (see Part II above).

The Commission adopted, in 2006, its report on “Non-citizens and minority rights” in consultation with, *inter alia*, the OSCE High Commissioner for National Minorities, after carrying out extensive reflection and discussions and aiming at reaching a common position on an issue of common interest and of great importance (see Part II above).

4. United Nations

Throughout 2006, the Venice Commission regularly provided advice to Mr Martti Ahtisaari, UN Office of the Special Envoy for the future status process for Kosovo, on the legal and constitutional aspects of a Kosovo status settlement. Mr Ahtisaari acknowledged the very good co-operation with

the Venice Commission in his speech to the Parliamentary Assembly of the Council of Europe on 24 January 2007.

The Commission also worked in consultation with the United Nations Working Group on Minorities and the UN Independent Expert on Minority Issues on the preparation of the report on “Non-citizens and minority rights” (see Part II above).

5. International Association of Constitutional Law (IACL)

Throughout 2006, the Venice Commission contributed to the preparation of the VIIth World Congress of the International Association of Constitutional Law, to be held in Athens in June 2007.

6. Association of European Election Officials (ACEEEO)

The Venice Commission was represented at the ACEEEO Conference in Jurmala (Latvia) on 31 August–2 September 2006. On this occasion, the ACEEEO changed its name from “Association of Central and Eastern European Election Officials” to “Association of European Election Officials”.

APPENDIX I – LIST OF MEMBER COUNTRIES

Members

Albania (14.10.1996)	Hungary (28.11.1990)
Andorra (1.02.2000)	Iceland (5.07.1993)
Armenia (27.03.2001)	Ireland (10.05.1990)
Austria (10.05.1990)	Italy (10.05.1990)
Azerbaijan (1.03.2001)	Republic of Korea (01.06.2006)
Belgium (10.05.1990)	Kyrgyzstan (01.01.2004)
Bosnia and Herzegovina (24.04.2002)	Latvia (11.09.1995)
Bulgaria (29.05.1992)	Liechtenstein (26.08.1991)
Chile (1.10.2005)	Lithuania (27.04.1994)
Croatia (1.01.1997)	Luxembourg (10.05.1990)
Cyprus (10.05.1990)	Malta (10.05.1990)
Czech Republic (1.11.1994)	Moldova (25.06.1996)
Denmark (10.05.1990)	Monaco (05.10.2004)
Estonia (3.04.1995)	Montenegro (20.06.2006)
Finland (10.05.1990)	Netherlands (1.08.1992)
France (10.05.1990)	Norway (10.05.1990)
Georgia (1.10.1999)	Poland (30.04.1992)
Germany (3.07.1990)	Portugal (10.05.1990)
Greece (10.05.1990)	Romania (26.05.1994)

Russian Federation (1.01.2002)

San Marino (10.05.1990)

Serbia (3.04.2003).

Slovakia (8.07.1993)

Slovenia (2.03.1994)

Spain (10.05.1990)

Sweden (10.05.1990)

Switzerland (10.05.1990)

“The former Yugoslav Republic
of Macedonia” (19.02.1996)

Turkey (10.05.1990)

Ukraine (3.02.1997)

United Kingdom (1.06.1999)

Associate member

Belarus (24.11.1994)

Observers

Argentina (20.04.1995)

Canada (23.05.1991)

Holy See (13.01.1992)

Israel (15.03.2000)

Japan (18.06.1993)

Kazakhstan (30.04.1998)

Mexico (12.12.2001)

United States (10.10.1991)

Uruguay (19.10.1995)

Participants

European Commission

OSCE/ODIHR

Special co-operation status

South Africa

APPENDIX II – LIST OF MEMBERS¹

Mr Antonio LA PERGOLA (Italy), Former President of the Constitutional Court; Former Advocate General and Judge of the Court of Justice of the European Communities; President Mint and national printing house of the Italian State

(Substitute: Mr Sergio BARTOLE, Professor, University of Trieste)

Mr Guido NEPPI MODONA, Judge, Constitutional Court of Italy)

* * *

Mr Aivars ENDZINS (Latvia), Vice-President, President, Constitutional Court

Ms Finola FLANAGAN (Ireland), Vice-President, Director General, Senior Legal Adviser, Head of the Office of the Attorney General

(Substitute: Mr James HAMILTON, Director of Public Prosecutions)

Mr Ugo MIFSUD BONNICI (Malta), Vice-President, President Emeritus

* * *

Mr Ergun ÖZBUDUN (Turkey), Professor, University of Bilkent, Vice President of the Turkish Foundation for Democracy

(Substitute: Mr Erdal ONAR, Associate Professor, Faculty of Law, Ankara University)

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

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

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

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(Substitute: Mr Miha POGACNIK, Professor of International and European Law,)

I. By order of seniority.

Mr Cyril SVOBODA (Czech Republic), Member of Parliament, Former Deputy Prime Minister, Former Minister of Foreign Affairs

(Substitute: Ms Eliska WAGNEROVA, Vice-President, Constitutional Court)

Mr Stanko NICK (Croatia), Former Ambassador of Croatia in Hungary

(Substitute: Ms Jasna OMEJEC, Vice-President, Constitutional Court)

Mr Kaarlo TUORI (Finland), Professor of Jurisprudence, University of Helsinki

(Substitute: Mr Matti NIEMIVUO, Director at the Department of Legislation, Ministry of Justice)

Mr Hjörtur TORFASON (Iceland), Former Judge, Supreme Court of Iceland

(Substitute: Ms Herdis THORGEIRSDOTTIR, Professor, Faculty of Law, Bifrost School of Business)

Mr Pieter VAN DIJK (The Netherlands), State Councillor, Former Judge at the European Court of Human Rights

(Substitute: Mr Erik LUKACS, Former Legal Adviser, Ministry of Justice)

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

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

(Substitute: Mr Anthony BRADLEY, Professor)

Mr Gagik HARUTUNIAN (Armenia), President, Constitutional Court

(Substitute: Mr Armen HARUTUNIAN, Counsellor, Constitutional Court, Rector, State Administration Academy)

Mr Cazim SADIKOVIC (Bosnia and Herzegovina), Dean, Faculty of Law, University of Sarajevo

Ms Lydie ERR (Luxembourg), Member of Parliament

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Mr Vojin DIMITRIJEVIC, (Serbia), Director, Belgrade Human Rights Centre

(Substitute : Mr Marc FISCHBACH, Mediator)

Mr José CARDOSO da COSTA (Portugal), Former President of the Constitutional Court, Professor, University of Coimbra

(Substitute: Ms Assuncao ESTEVES, Member of the European Parliament)

Mr John KHETSURIANI (Georgia), President, Constitutional Court

(Substitute: Mr Levan BODZASHVILI, Director, Ministry of Foreign Affairs)

Mr Piero GUALTIERI (San Marino), Professor

(Substitute: Ms Barbara REFFI, State Attorney)

Ms Cholpon BAEKOVA (Kyrgyzstan), President, Constitutional Court

Mr Lätif HÜSEYNOV (Azerbaijan), Professor of Public International Law

Mr Anton STANKOV (Bulgaria), Judge, Sofia City Court

(Substitute: Mr Todor TODOROV Expert Consultant of the Speaker of the National Assembly)

Ms Marijana LAZAROVA TRAKOVSKA, (“The former Yugoslav Republic of Macedonia”), Judge, Constitutional Court

(Substitute: Mr Borce DAVITKOVSKI, Professor, Law Faculty, St Cyril and Methodius University)

Mr Ján MAZAK (Slovakia), Advocate General, Court of Justice of the European Communities, Former President, Constitutional Court

(Substitute: Mr Peter KRESAK, Professor, Member of the National Council of Slovakia)

Mr Carlos CLOSA MONTERO (Spain), Professor, Sub-Director for Studies and Investigation, Centre for Political and Constitutional Studies

(Substitute: Mr Angel J. SANCHEZ NAVARRO, Professor of Constitutional Law, Complutense University, Madrid)

Mr Serhiy HOLOVATY (Ukraine), Member of Parliament, Former Minister of Justice, President, Ukrainian Legal Foundation

Mr Dominique CHAGNOLLAUD (Monaco), Member of the Supreme Court, Professor, University of Law, Economics and Social Science Paris II

(Substitute : Mr Christophe SOSSO, Defence Lawyer)

Mr Nicolae ESANU (Moldova), Deputy Minister of Justice

Mr Peter PACZOLAY (Hungary), Judge, Constitutional Court

(Substitute: Mr Laszlo TROCSANY, Judge, Constitutional Court, Professor of Constitutional Law University of Szeged)

Mr Oliver KASK (Estonia), Head of Public Law Division, Legislative Politics Department, Ministry of Justice
(Substitute: Ms Liina LUST, Adviser, Public Law Division Legislative Methodology Department, Ministry of Justice)

Mr Hans Heinrich VOGEL, Professor in Public Law, University of Lund
(Substitute: Mr Iain CAMERON, Professor, University of Uppsala)

Mr Luis CEA EGANA (Chile), President, Constitutional Court
(Substitute: Mr Juan COLOMBO CAMPBELL, Judge, constitutional Court)

Mr Valeriy ZORKIN (Russia), President of the Constitutional Court
(Substitute: Mr Valeriy MUSIN, Head of Division, Legal Faculty, St Petersburg State University)

Mr Egidijus JARASIUNAS (Lithuania), Counsellor to Chairman of the Constitutional Court
(Substitute: Ms Zivile LIEKYTE, Director, Department of Legislation and Public Law, Ministry of Justice)

Mr Jean-Claude COLLIARD (France), Professor of Public Law, Member of the Constitutional Council
(Substitute: Mr Olivier DUTHEILLET DE LAMOTHE, State Counsellor, member of the Constitutional Council)

Mr Hubert HAENEL, Member of the Council of State, Senator Haut-Rhin, President of the Senate delegation to the European Union)

Mr Christoph GRABENWARTER (Austria), Judge, Constitutional Court
(Substitute: Ms Gabriele KUČSKO-STADLMAYER, Professor, University of Vienna)

Ms Gret HALLER (Switzerland), Senior lecturer, Johann Wolfgang Goethe University, Frankfurt am Main, Former President of the Swiss Parliament
(Substitute: Ms Monique JAMETTI GREINER, Vice Director, Head of the International Relations Department, Federal Office of Justice)

Ms Kalliopi KOUFA (Greece), Professor of International Law, University Aristote, Thessaloniki
(Substitute: Ms Fani DASKALOPOULOU-LIVADA, Assistant Legal Adviser, Legal Department, Ministry of Foreign Affairs)

Mr Frixos NICOLAIDES (Cyprus), Supreme Court Judge
(Substitute: Mr Myron NICOLATOS, Supreme Court Judge)

Mr Jan VELAERS (Belgium), Professor, University of Antwerp
(Substitute :Mr Jean-Claude SCHOLSEM (Belgium), Professor, Law Faculty, University of Liège)

Mr Lucian MIHAI (Romania), Professor, Faculty of Law, University of Bucharest
(Substitute: Mr Bogdan AURESCU, Director General, Ministry of Foreign Affairs)

Mr Kong-hyun LEE, Justice, Constitutional Court

Mr Boohwan HAN, Attorney at Law

Mr Ledi BIANKU (Albania), Executive Director, European Centre, Tirana

Mr Srdjan DARMANOVIC (Montenegro), Professor, University of Montenegro, Director, Centre for Democracy and Human Rights

Mr Georg NOLTE (Germany), Professor of Public Law, University Ludwig-Maximilians, Munich
(Substitute: Ms Angelika NUSSBERGER, Professor, University of Cologne)

Mr Harry GSTÖHL (Liechtenstein), Princely Justice Counsellor, Attorney at Law
(Substitute: Mr Wilfried HOOP, Partner, Hoop and Hoop)

Mr Jorgen Steen SORENSEN (Denmark), Deputy Permanent Secretary, Ministry of Justice
(Substitute: Mr Michael Hansen JENSEN, Professor, University of Aarhus)

Associate member

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

Observers

Mr Hector MASNATTA¹ (Argentina), Ambassador, Executive Vice-Chairman, Centre for Constitutional and Social Studies

1. Deceased in February 2007.

Mr Yves de MONTIGNY (Canada), Judge, Federal Court of Canada

(Substitute: Mr Gérald BEAUDOIN, Professor, University of Ottawa, Former Senator)

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

Mr Dan MERIDOR (Israel), Chairman, The Jerusalem Foundation, Senior Partner, Haim Zadok and Co

Mr Yasushi FUKU (Japan), Consul, Consulate General of Japan, Strasbourg

Mr Almaz N. KHAMZAYEV (Kazakhstan), Ambassador of Kazakhstan in Rome

Ms Maria AMPARO CASAR (Mexico), Professor

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

Mr Jorge TALICE (Uruguay), Ambassador of Uruguay in Paris

Secretariat

Mr Gianni BUQUICCHIO

Ms Tatiana MYCHELOVA

Mr Thomas MARKERT

Mr Gaël MARTIN-MICALLEF

Mrs Simona GRANATA-MENGHINI

Ms Ketevan TSKHOMELIDZE

Mr Pierre GARRONE

Ms Brigitte AUBRY

Mr Rudolf DÜRR

Ms Marian JORDAN

Mr Alain CHABLAIS

Mrs Emmy KEFALLONITOU

Mr Sergueï KOUZNETSOV

Mrs Brigitte RALL

Ms Caroline MARTIN

Ms Ana GOREY

Ms Tanja GERWIEN

Mrs Marie-Louise WIGISHOFF

Ms Helen MONKS

Ms Caroline GODARD

APPENDIX III – OFFICES AND COMPOSITION OF THE SUB-COMMISSIONS

- **President:** Mr La Pergola
- **Vice-Presidents:** Mr Endzins, Ms Flanagan, Mr Mifsud Bonnici
- **Bureau:** Mr Zorkin, Mr Paczolay
- **Council for Democratic Elections:** Messrs Chagnollaud, Colliard, Ms Lazarova Trajkovska, Messrs Mifsud Bonnici, Paczolay, Sanchez Navarro, Torfason, Ms Wagnerova
- **Joint Council on Constitutional Justice:** Messrs Bartole, Cardoso da Costa, Endzins, Harutunian, Holovaty, Jarasiunas, Jowell, Khetsuriani, Ms Lazarova Trajkovska, Messrs Lee, Mazak, Mihai, Neppi Modona, Ms Omejec, Mr Paczolay, Ms Thorgeirsdottir, Mr Torfason, Ms Wagnerova
- **Federal State and Regional State:** Messrs Nick; Scholsem
- **International Law:** Messrs Bianku, Cameron, Cardoso da Costa, Dimitrijevic, Dutheillet de Lamothe, Ms Esteves, Messrs Haenel, Huseynov, Ms Koufa, Messrs Mifsud Bonnici, Nick, Nolte, Sorensen, Torfason
- **Protection of Minorities:** Messrs Bartole, van Dijk, Dimtrijevic, Ms Koufa, Messrs Nick, Scholsem, Trocsanyi, Velaers
- **Fundamental Rights:** Messrs Kask, Jensen, Ms Koufa, Ms Lazarova Trajkovska, Messrs Luchaire, Mifsud Bonnici, Musin, Neppi Modona, Nick, Ms Nussberger, Ms Omejec, Ms Suchocka, Ms Thorgeirsdottir, Messrs Torfason, Velaers
- **Democratic Institutions:** Messrs Bianku, Bradley, Closa Montero, Darmanovic, Dutheillet de Lamothe, Endzins, Ms Err, Messrs Haenel, Holovaty, Jambrek, Jarasiunas, Mifsud Bonnici, Neppi Modona, Özbudun, Paczolay, Scholsem, Ms Thorgeirsdottir, Mr Torfason
- **Judiciary:** Messrs Bartole, Bradley, Cardoso da Costa, Endzins, Gualtieri, Haenel, Holovaty, Jambrek, Jowell, Kask, Khetsuriani, Mazak, Mihai, Neppi Modona, Ms Nussberger, Mr Özbudun, Ms Suchocka, Mr Torfason
- **External Relations:** Messrs Cardoso da Costa, Jowell, Nick, Nolte, Trocsanyi

APPENDIX IV – MEETINGS OF THE VENICE COMMISSION¹

I. Plenary sessions

66th Session	17-18 March
67th Session	9-10 June
68th Session	13-14 October
68th Session	15-16 December

Bureau

- Meeting enlarged to include the Chairpersons of Sub-Commissions – 16 March
- Meeting enlarged to include the Chairpersons of Sub-Commissions – 8 June
- Meeting enlarged to include the Chairpersons of Sub-Commissions – 12 October
- Meeting enlarged to include the Chairpersons of Sub-Commissions – 14 December

2. Sub-commissions

Constitutional Justice	8 June
Democratic Institutions	16 March (Joint Meeting with the Sub-Commission on International Law) 12 October
Fundamental Rights	14 December
International Law	16 March (Joint Meeting with the Sub-Commission on Democratic Institutions)
Judiciary	14 December
Protection of Minorities	12 October 14 December

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1. All meetings took place in Venice unless otherwise indicated.

3. Democratic development of public institutions and respect for human rights

Meetings of Working Groups and Rapporteurs

Azerbaijan

Freedom of assembly

19 September (Baku)
9-10 November (Baku)
6-7 December (Strasbourg)

Belarus

Conference "Belarus on the road to the future"

10-12 February (Vilnius)

Bosnia and Herzegovina

Constitutional reform

27-28 March (Cadenabbia)

Constitutional Advisory Council

4 September (Büdingen)
25 September (Vienna)
22 October (Büdingen)
7-8 December (Brussels)

Georgia

Restitution of property

8-9 February (Tbilisi)
30-31 March (Vladikavkaz)
3 April (Moscow)
17-18 May (Tbilisi and Tskhinvali)

Kazakhstan

Legal and constitutional co-operation

16-17 November (Almaty)

Kyrgyzstan

Constitutional reform

4-5 July (Bishkek)

Montenegro

Constitutional developments	28-29 August (Podgorica) 28-29 November (Podgorica)
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Romania

Draft law on statute of national minorities	8 February (Bucharest)
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Serbia

Meetings on status of Kosovo	19 January (Vienna) 29 May (Vienna) 20-23 June (Thessaloniki) 3-4 August (Vienna) 13-14 September (Vienna) 23 November (Vienna) 28 November (Pristina)
Secret detention facilities and the inter-state transport of prisoners	13 January (Paris) 27-28 February (Paris)
Forum for the Future of Democracy	18 May (Strasbourg) 18-19 October (Moscow)
Remedies for the excessive length of proceedings	3 April (Bucharest)
Democratic oversight of national security in Council of Europe member States	22 September (Paris) 1 December (Paris)

Other seminars and conferences organised by the Commission or in which the Commission was involved

Conference “the FCNM: a useful pan-European instrument”	5 May (Brussels)	91
XVIIth Congress “the rule of law in peace operations”	16-21 May (Scheveningen)	
Seminar organised by the International Institute for Strategic Studies	19-20 May (Tbilisi)	
Round table on “non-citizens and minority rights”	16 June (Geneva)	

Workshop “theory and practice of cultural autonomy in central and eastern Europe”	17-18 July (Glasgow)
Conference “Transparency and access to information, world tendencies”	28-30 August (Mexico City)
Hearing Parliamentary Assembly on “Representation of autonomous regions and minorities in national parliaments”	29 September (Strasbourg)
Conference “Learning Europe – Continuous training in EU matters”	13-14 October (Brijuni)
OSCE/ODIHR Round Table on “the exercise of the right to freedom of peaceful assembly in selected OSCE States: challenges and lessons learnt”	16 October (Warsaw)
Meeting of the Scientific Council of the European Academy	1 December (Bolzano)
Meeting ODIHR panel of experts on freedom of religion and belief	5 December (Strasbourg)

4. Strengthening constitutional justice as guarantor of democracy, human rights and the rule of law

Meeting of the Working Group on the systematic thesaurus	15 June (Budapest)
Joint Council on Constitutional Justice (Meeting with Liaison Officers from Constitutional Courts)	16 June (Budapest)
4th Annual Conference ACCPUF	13 November (Paris)

Meetings of working groups and rapporteurs

Armenia

Draft law on amending the law on the Constitutional Court	26 April (Yerevan)
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Ukraine

Constitutional amendments on the Public Prosecutor’s Office	2 October (Kyiv)
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Constitutional justice seminars

Protection of electoral rights and the right to political associations by the constitutional court	10-11 February (Tbilisi)
International Round Table on “relations between Constitutional Courts and the European Union”	10-11 April (Budapest)
Review by the Constitutional Court of proceedings before ordinary courts applying community law	1-2 June (Kosice)
Mini Conference on Gender Equality	16 June (Budapest)
Sovereignty and State structure in pluri-ethnic states	22-23 September (Chişinău)
IXth International Forum on Constitutional Justice on “Common Legal Space of Europe and Practice of Constitutional Justice”	26-28 October (Moscow)
The Inter-relations between the Constitutional Court and ordinary courts	9-10 November (Baku)
Guarantees for the Independence of Constitutional Judges	23-24 November (Bucharest)
Lisbon Forum “Constitutionalism – the key to Democracy, Human Rights and the Rule of Law” in co-operation with the North-South Centre	28-29 November (Lisbon)
Communicating the decisions of the Constitutional Court to the public	1-2 December (Tbilisi)
The role of the Constitutional Court in the protection of the values enshrined in the Constitution: experience of the last decade and the prospect for development in Europe	8-9 December (Riga)

Other seminars and conferences in which the Commission participated

Exchange of views with Southern African Judges Commission	18 March
Meeting of Southern African judges Commission with European Court of Human Rights	20 March (Strasbourg)
50th Anniversary of Constitutional Court of Italy	21-22 April (Rome)
44th Anniversary of Constitutional Court of Turkey	25-26 April (Ankara)

Meeting with Constitutional Council of Algeria on co-operation with this Council and with Union of Arab Constitutional Courts and Councils	9-11 May (Algiers)
OSCE Human Dimension Seminar on “upholding the rule of law and due process in criminal justice systems”	11 May (Warsaw)
Anniversary of Constitutional Tribunal of Chile	24-26 May (Santiago di Chile)
Southern African Judges Commission General Meeting	10-11 August (Maputo)
Preparatory meeting Conference of European Constitutional Courts	7 September (Vilnius)
XIth Yerevan International Conference	6-7 October (Yerevan)
Ibero-American Conference on Constitutional Justice	25-27 October (Santiago di Chile)
Study visit for registrars of Southern African Justice Commission	27 November-1 December (Dublin)
5th Conference of Asian Constitutional Courts	30 November-1 December (Manila)
Collection, management and dissemination of law in the francophone countries	5-7 December (Yaounde, Cameroon)

5. Democracy through free and fair elections

Council for Democratic Elections

18 March
8 June
12 October
16 December

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Meetings of working groups and rapporteurs

Armenia

Electoral reform	27 September (Yerevan)
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Azerbaijan

Meeting on election practice in Azerbaijan	5 April (Strasbourg)
Meeting with Central Electoral Commission	27 April (Baku)
Meeting with OSCE/ODIHR on new amendments to electoral code	7 December (Strasbourg)

Croatia

Draft legislation on the direct election of the county heads, the mayor of the city of Zagreb, mayors and the municipality heads	15-16 March (Zagreb)
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Georgia

Electoral reform	8 February (Tbilisi)
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Montenegro

Referendum	6 January (Bratislava)
	17 January (Brussels)
	25 January (Belgrade)
	19 April (Bratislava)

Serbia

Meeting with OSCE/ODIHR on electoral reform	20-21 June (Belgrade)
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Electoral law training workshops

Workshop for trainers	20-22 June (Skopje)
Study visit for Georgia	16-17 March (Paris)

Electoral assistance and election observation

Observation elections in Ukraine	26-27 March (Kyiv)
Observation elections in Montenegro	19-22 May (Podgorica)
	8-11 September (Podgorica)

Observation parliamentary elections in “the former Yugoslav Republic of Macedonia”	3-6 July (Skopje)
Assistance to the Central Election Commission in Georgia	25-26 May (Tbilisi) 27-28 July (Tbilisi) 20-23 November (Tbilisi)
Observation elections in Bosnia and Herzegovina	29 September-2 October (Sarajevo)
Observation local self-government elections in Georgia	2-6 October (Tbilisi)

Other seminars and conferences organised by the Commission or in which the Commission was involved

UniDem Seminar on the “Preconditions for a democratic election”	17-18 February (Bucharest)
Round table on elections in Ukraine	27-28 February (Kyiv)
Meeting of the group of specialists on human rights in the information society	10 March (Strasbourg)
Round table on follow up to the elections in Azerbaijan	28-29 April (Baku)
Seminar on the new electoral code and the relevant legislation in view of the up-coming elections in “the former Yugoslav Republic of Macedonia”	15-16 May (Skopje)
Conference on “Election systems and proceedings: international practice”	21-22 May (Chişinău)
3rd European Conference of electoral management bodies – Development and codification of international standards in the field of elections	22-23 May (Moscow)
Inter meeting on implementation of the declaration of principles for international election observation	1 June (London)
High level tripartite meeting on electoral matters	4-5 July (Geneva)
OSCE Chairmanship Conference “building democracy through OSCE electoral assistance and observation”	12 July (Brussels)
ACEEEO Conference	31 August-2 September (Riga)
Round table on draft law on the financing of political parties and electoral campaigns	11 September (Zagreb)
Meeting Ad hoc Committee on E-Democracy	18-19 September (Strasbourg)

Conference on “the role of constitutional courts in ensuring genuine elections”	6 October (Yerevan)
International Conference on legislative elections	30 October-1 November (Kyiv)
Meeting to review the developments in the field of e-voting since the adoption of Recommendation Rec(2004)11 of the Committee of Ministers to member States on legal; operational and technical standards for e-voting	24 November (Strasbourg)
OSCE/ODIHR Expert meeting on observation of voter registration	7-8 December (Warsaw)

6. UniDem campus for the legal training of the civil service

National Co-ordinators Meeting	19 January (Trieste)
Positive discrimination and access to the civil service	6-9 February (Trieste)
Co-ordination meeting for summer school	3 March (Graz)
Concerted efforts to fight corruption at the European level	2-6 May (Trieste)
Summer School on “European integration – constitutional and legislative reform”	4-14 July (Trieste and Graz)
Management of irregular migration in Europe and strategies to combat trafficking in human beings	9-12 October (Trieste)
Freedom of association and freedom of assembly – sources, principles and proper implementation in practice	27-30 November (Trieste)

7. Other seminars and conferences of a general nature organised by the commission or in which the Commission was involved

Executive Board IACL	8 April (Johannesburg)
Round table IACL	9-10 April (Cape Town)

APPENDIX V – LIST OF PUBLICATIONS OF THE VENICE COMMISSION

Series – Science and technique of democracy¹

- No. 1 Meeting with the presidents of constitutional courts and other equivalent bodies² (1993)
- No. 2 Models of constitutional jurisdiction*³ 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 economy² (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 democracy² (1995)
- No. 14 Constitutional justice and democracy by referendum (1996)

1. Publications are also available in French unless otherwise indicated.

2. Speeches in the original language (English or French).

3. Publications marked with * are also available in Russian.

- No. 15 The protection of fundamental rights by the Constitutional Court* (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 resolution² (2000)
- No. 30 European Integration and Constitutional Law (2001)
- No. 31 Constitutional implications of accession to the European Union² (2002)
- No. 32 The protection of national minorities by their kin-State² (2002)
- No. 33 Democracy, Rule of Law and Foreign Policy² (2003)
- No. 34 Code of good practice in electoral matters* (2003)

- No. 35 The resolution of conflicts between the central State and entities with legislative power by the Constitutional Court² (2003)
- No. 36 Constitutional Courts and European Integration⁴ (2004)
- No. 37 European and U.S. Constitutionalism (2005)
- No. 38 State Consolidation and National Identity⁴ (2005)
- No. 39 European Standards of Electoral Law in Contemporary Constitutionalism¹ (2005)
- No. 40 Evaluation of fifteen years of constitutional practice in central and eastern Europe* (2005)
- No. 41 Organisation of elections by an impartial body⁴ (2006)
- No. 42 The status of international treaties on human rights⁴ (2006)
- No. 43 The preconditions for a democratic election⁴ (2006)

Other publications

Bulletin on Constitutional Case-Law

1993-2005 (three issues per year)

Special bulletins

- Description of Courts (1999)*
- Basic texts – extracts from Constitutions and laws on Constitutional Courts – issues Nos. 1-2 (1996), issues Nos. 3-4 (1997), issue No. 5 (1998), issue No. 6 (2001)
- Leading cases of the European Court of Human Rights (1998)*
- Freedom of religion and beliefs (1999)
- Special Edition Leading cases I – Czech Republic, Denmark, Japan, Norway, Poland, Slovenia, Switzerland, Ukraine (2002)

4. Available in English only.

- Inter Court Relations (2003)
- Role and functions of the Secretary General of the Constitutional Court or equivalent body (2006)
- Criteria for the limitation of Human Rights by the Constitutional Court (2006)

Annual reports

1993-2005

Brochures

- 10th anniversary of the Venice Commission (2001)*
- Revised Statute of the European Commission for Democracy through Law (2002)
- The Venice Commission (2002)
- UniDem Campus – Legal training for civil servants (2003)

APPENDIX VI – LIST OF DOCUMENTS ADOPTED IN 2006

- CDL-AD(2006)004 Opinion on different proposals for the election of the presidency of Bosnia and Herzegovina endorsed by the Commission at its 66th Plenary Session (Venice, 17-18 March 2006);
- CDL-AD(2006)005 Opinion on the draft decision on the limitation of parliamentary immunity and the conditions for the authorisation to initiate investigation in relation with corruption offences and abuse of duty of Albania adopted by the Venice Commission at its 66th Plenary Session (Venice, 17-18 March 2006);
- CDL-AD(2006)006 Opinion on the two draft laws amending Law No. 47/1992 on the organisation and functioning of the Constitutional Court of Romania adopted by the Commission at its 66th Plenary Session (Venice, 17-18 March 2006);
- CDL-AD(2006)007 Interim opinion on the draft law on rehabilitation and restitution of property of victims of the Georgian-Ossetian Conflict of Georgia adopted by the Commission at its 66th Plenary Session (Venice, 17-18 March 2006);
- CDL-AD(2006)008 Joint opinion on the draft electoral code of “The Former Yugoslav Republic of Macedonia” by the Venice Commission and OSCE/ODIHR adopted by the Venice Commission at its 66th Plenary Session (Venice, 17-18 March 2006);
- CDL-AD(2006)009 Opinion on the international legal obligations of Council of Europe member States in respect of secret detention facilities and inter-state transport of prisoners adopted by the Venice Commission at its 66th Plenary Session (17-18 March 2006);
- CDL-AD(2006)010 Opinion on the draft law of Georgia on property restitution and compensation on the territory of Georgia for the victims of conflict in the former South Ossetia district adopted by the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)011 Opinion on the law on the information and security service of the Republic of Moldova adopted by the Venice Commission at its 66th Plenary Session (17-18 March 2006);

- CDL-AD(2006)012 Joint opinion on the draft law on the State Election Commission of the Republic of Croatia by the Venice Commission and OSCE/ODIHR adopted by the Venice Commission at its 66th Plenary Session (Venice, 17-18 March 2006);
- CDL-AD(2006)013 Joint recommendations on the laws on parliamentary, presidential and local elections, and electoral administration in the Republic of Serbia by the Venice Commission and OSCE/ODIHR adopted by the Venice Commission at its 66th Plenary Session (Venice, 17-18 March 2006);
- CDL-AD(2006)014 Opinion on the prohibition of financial contributions to political parties from foreign sources adopted by the Venice Commission at its 66th Plenary Session (Venice, 17-18 March 2006);
- CDL-AD(2006)015 Opinion on the protection of human rights in emergency situations adopted by the Venice Commission at its 66th Plenary Session (Venice, 17-18 March 2006);
- CDL-AD(2006)016 Opinion on possible constitutional and legislative improvements to ensure the uninterrupted functioning of the Constitutional Court of Ukraine adopted by the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)017 Opinion on amendments to the Law on the Constitutional Court of Armenia adopted by the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)018 Report on electoral law and electoral administration in Europe – synthesis study on recurrent challenges and problematic issues Adopted by the Council for Democratic Elections at its 17th meeting (Venice, 8-9 June 2006) and the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)019 Opinion on the draft amendments to the Constitution of Bosnia and Herzegovina, sent as a preliminary opinion to the authorities of Bosnia and Herzegovina on 7 April 2006 and endorsed by the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- 104 CDL-AD(2006)020 Declaration on women's participation in elections adopted by the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)021 Election evaluation guide adopted by the Council for Democratic Elections at its 17th meeting (Venice, 8-9 June 2006) and the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);

- CDL-AD(2006)022 Joint opinion on the electoral code of “the former Yugoslav Republic of Macedonia” by the Venice Commission and OSCE/ODIHR adopted by the Council for Democratic Elections at its 17th meeting (Venice, 8-9 June 2006) and the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)023 Joint opinion on the Election Code of Georgia as amended up to 23 December 2005 by the Venice Commission and OSCE/ODIHR adopted by the Council for Democratic Elections at its 16th meeting (Venice, 18 March 2006) and the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)024 Comments on the draft law on churches and religious organisations of the Republic of Serbia adopted by the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)025 Report on the participation of political parties in elections adopted by the Council for Democratic Elections at its 16th meeting (Venice, 16 March 2006) and the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)026 Joint opinion on draft amendments to the Electoral Code of the Republic of Armenia by the Venice Commission and OSCE/ODIHR adopted by the Council for Democratic Elections at its 17th meeting (Venice, 8-9 June 2006) and the Venice Commission at its 67th Plenary Session (Venice, 9-10 June 2006);
- CDL-AD(2006)027rev Guidelines on the holding of referendums adopted by the Council for Democratic Elections at its 18th meeting (Venice, 12 October 2006) and the Venice Commission at its 68th Plenary Session (Venice, 13-14 October 2006);
- CDL-AD(2006)028 Joint opinion on the electoral legislation of the republic of Belarus by the Venice Commission and OSCE/ODIHR adopted by the Council for Democratic Elections at its 18th meeting (Venice, 12 October 2006) and the Venice Commission at its 68th Plenary Session (Venice, 13-14 October 2006);
- CDL-AD(2006)029 Opinion on the draft law of Ukraine amending the Constitutional Provisions on the Procuracy adopted by the Commission at its 68th Plenary Session (Venice, 13-14 October 2006);
- CDL-AD(2006)030 Opinion on the draft law on the insertion of amendments on freedom of conscience and religious organisations in Ukraine adopted by the Venice Commission at its 68th Plenary Session (Venice, 13-14 October 2006);

- CDL-AD(2006)031 Comments on the draft law on the financing of political parties of Croatia adopted by the Venice Commission at its 68th Plenary Session (Venice, 13-14 October 2006);
- CDL-AD(2006)032 Opinion on the draft law on the Cabinet of Ministers of Ukraine adopted by the Venice Commission at its 68th Plenary Session (Venice, 13-14 October 2006);
- CDL-AD(2006)033 Joint opinion on the draft law on peaceful assemblies in Ukraine by the Venice Commission and OSCE/ODIHR adopted by the Venice Commission at its 68th Plenary Session (Venice, 13-14 October 2006);
- CDL-AD(2006)034 Opinion on the Law on Freedom of Assembly in Azerbaijan, adopted by the Venice Commission at its 68th Plenary Session (Venice, 13-14 October 2006);
- CDL-AD(2006)035 Opinion on the possible introduction of the entitlement for former MPs to resume their parliamentary seat upon ceasing their governmental functions in Ukraine adopted by the Venice Commission, at its 68th Plenary Session, (Venice, 13-14 October 2006);
- CDL-AD(2006)036 Study on the effectiveness of national remedies in respect of excessive length of proceedings adopted by the Venice Commission at its 69th Plenary Session (Venice, 15-16 December 2006);
- CDL-AD(2006)037 Joint opinion on the election code of Georgia as amended through 24 July 2006 by the Venice and OSCE/ODIHR, adopted by the Commission at its 69th Plenary Session (Venice, 15-16 December 2006);
- CDL-AD(2006)038 Opinion on amendments to the Law on the Human Rights Defender of Armenia adopted by the Venice Commission at its 69th Plenary Session (Venice, 15-16 December 2006);
- CDL-AD(2006)039 Comments on the final proposal of the draft law on direct election of the county heads, the Mayor of the city of Zagreb, mayors and the municipality heads of the Republic of Croatia endorsed by the Venice Commission At its 69th Plenary Session (Venice, 15-16 December 2006);
- CDL-AD(2006)040 Opinion on the draft constitutional law of Georgia on amendments to the constitution at its 69th Plenary Session (Venice, 15-16 December 2006);
- CDL-AD(2007)001 Report on non-citizens and minority rights adopted by the Venice Commission at its 69th Plenary Session (Venice, 15-16 December 2006).