

THE VENICE COMMISSION OF THE COUNCIL OF EUROPE





Promoting democracy through law

■ **The role** of the Venice Commission – whose full name is the European Commission for Democracy through Law – is to *provide legal advice* to its member states and, in particular, to help states wishing to bring their legal and institutional structures into line with European standards and international experience in the fields of democracy, human rights and the rule of law.

■ It also contributes to *the dissemination and consolidation of a common constitutional heritage*, plays a unique role in conflict management and provides “emergency constitutional aid” to states in transition.

■ The Commission has **60 member states**: the **47 Council of Europe member states**, plus **13 other countries** (Algeria, Brazil, Chile, Israel, Kazakhstan, the Republic of Korea, Kosovo, Kyrgyzstan, Morocco, Mexico, Peru, Tunisia and the USA).

■ Its **individual members** are university professors of public and international law, supreme and constitutional court judges and members of national parliaments. They are *designated for four years* by the member states, but *act in their individual capacity*. Mr Gianni Buquicchio is the President of the Commission since December 2009.

■ The Commission works in **three areas**:

- ▶ democratic institutions and fundamental rights;
- ▶ constitutional justice and ordinary justice;
- ▶ elections, referendums and political parties.

■ Its **permanent secretariat** is located *in Strasbourg, France*, at the headquarters of the Council of Europe. Its **plenary sessions** are held *in Venice, Italy*, at the Scuola Grande di San Giovanni Evangelista, *four times a year* (March, June, October and December).

Commission members

MEMBERS

■ Albania (1996), **Algeria** (2007), Andorra (2000), Armenia (2001), Austria (1990), Azerbaijan (2001), Belgium (1990), Bosnia and Herzegovina (2002), **Brazil** (2009), Bulgaria (1992), **Chile** (2005), Croatia (1997), Cyprus (1990), Czech Republic (1994), Denmark (1990), Estonia (1995), Finland (1990), France (1990), Georgia (1999), Germany (1990), Greece (1990), Hungary (1990), Iceland (1993), Ireland (1990), **Israel** (2008), Italy (1990), **Kazakhstan** (2011), Kosovo (2014), **Kyrgyzstan** (2004), Latvia (1995), Liechtenstein (1991), Lithuania (1994), Luxembourg (1990), Malta (1990), **Mexico** (2010), Republic of Moldova (1996), Monaco (2004), Montenegro (2006), **Morocco** (2007), Netherlands (1992), Norway (1990), **Peru** (2009), Poland (1992), Portugal (1990), **Republic of Korea** (2006), Romania (1994), Russian Federation (2002), Serbia (2003), Spain (1990), Slovakia (1993), Slovenia (1994), San Marino (1990), Sweden (1990), Switzerland (1990), “The former Yugoslav Republic of Macedonia” (1996), **Tunisia** (2010), Turkey (1990), Ukraine (1997), United Kingdom (1999), **United States** (2013).

ASSOCIATE MEMBER

■ Belarus (1994)

OBSERVER STATES

■ Argentina (1995), Canada (1991), Japan (1993), Holy-See (1992), Uruguay (1995)

PARTICIPANTS

■ European Union, OSCE / ODIHR

SPECIAL CO-OPERATION STATUS

■ South Africa, Palestinian National Authority

The Commission's activities

OPINIONS AND STUDIES

■ The Venice Commission's primary task is to provide states with legal advice in the form of **legal opinions on draft legislation or legislation already in force** which is submitted to it for examination. It also produces **studies and reports** on topical issues. Groups of members assisted by the secretariat prepare the draft opinions and studies, which are then discussed and adopted at the Commission's plenary sessions.

A DIALOGUE-BASED WORKING METHOD

- ▶ The Commission does not seek to impose the solutions set out in its opinions. Rather, it adopts a non-directive approach based on dialogue and shares member states' experience and practices. For this reason, a working group visits the country concerned to meet the various stakeholders and to assess the situation as objectively as possible. The authorities are also able to submit comments on the draft opinions to the Commission. The opinions prepared are generally heeded by the countries concerned.
- ▶ International institutions, civil society and the media regularly refer to the Commission's opinions.

CONFERENCES AND SEMINARS

■ As the quality of democracy depends not only on the quality of laws, but also on their implementation, the Commission holds seminars and conferences in partnership with constitutional courts, parliaments, central electoral commissions and universities.

TRANSNATIONAL STUDIES AND TRAINING

■ Reflection and research concerning topical transnational questions form the basis of the **Universities for Democracy (UniDem)** studies and conferences, the findings and proceedings of which are published in the Science and Technique of Democracy series.

Fields of action

DEMOCRATIC INSTITUTIONS AND FUNDAMENTAL RIGHTS

■ Assisting states in the constitutional and legislative field so as to ensure the democratic functioning of their institutions and respect for fundamental rights is one of the Venice Commission's key tasks. Its **opinions, conferences, studies and publications** in this field concern constitutional reforms, the balance and relations between the different branches of power, emergency powers, parliamentary immunity, federalism and regionalism, and international law issues. In addition, the Commission deals with issues relating to fundamental rights such as the freedoms of conscience and religion, assembly, expression and association, in addition to the protection of minorities and prohibition of discrimination.

NEIGHBOURHOOD POLICY/ CO-OPERATION WITH NEIGHBOURING COUNTRIES

- ▶ Without losing sight of its objective in Europe, the Commission is increasingly called upon to act outside the region. Through activities in all its areas of responsibility in countries of the Maghreb, Central Asia and Latin America, the Venice Commission has confirmed its reputation as an **independent, impartial, competent and reliable partner** of the authorities in the countries concerned and the various international organisations active in those regions.



CONSTITUTIONAL JUSTICE AND ORDINARY JUSTICE

As it believes that constitutional justice is a key aspect of democracy, the protection of human rights and the rule of law, the Venice Commission **supports constitutional courts and equivalent bodies** by fostering dialogue between judges. Although constitutions differ from country to country, constitutional courts can draw mutual inspiration from the reasoning they develop on common constitutional principles (“cross-fertilisation”).

To this end, the Commission compiles and disseminates constitutional case-law in the *Bulletin on Constitutional Case-Law* and the *CODICES database*. They present the most significant decisions delivered by over 100 participating courts, as well as constitutions, laws and descriptions of how the various constitutional courts operate. The Commission also facilitates the exchange of information between courts through the online *Venice Forum*.

At the request of a constitutional court, the Commission may provide *amicus curiae opinions* on aspects of comparative international law regarding cases under way.

In response to co-operation requests from non-European courts, the Commission established the *World Conference on Constitutional Justice*, for which it provides the secretariat.

ELECTIONS, REFERENDUMS AND POLITICAL PARTIES

Elections and referendums which **meet international standards** are of the utmost importance in any democratic society. This is therefore the third of the Commission’s key areas of activity. These matters are dealt with by the *Council for Democratic Elections (CDE)*, a body comprising representatives of the Venice Commission, the Parliamentary Assembly and the Congress of Local and Regional Authorities of the Council of Europe.

The Venice Commission and the CDE have set out the international standards which should apply to the organisation of elections in the *Code of Good Practice in Electoral Matters*. They are active in drafting guidelines on a number of issues which are essential for the organisation of elections and the functioning of political parties. They also draw up opinions and recommendations on electoral legislation in the member states together with the OSCE/ODIHR.

Regarding legislation – although improvements are desirable, even necessary in a significant number of states – the problems to be solved mainly concern its implementation. The Commission is therefore **involved in assistance activities concerning the implementation of international standards** on elections, in co-operation with the other international bodies active in this area. In addition, the VOTA database contains a compendium of member states’ electoral laws.

A LAW-BASED APPROACH TO CONFLICT RESOLUTION

The resolution of a conflict must be based on a viable legal text which will help bring about a political solution. For this reason, the Venice Commission pays particular attention to countries in which there are – or have been – ethno-political conflicts. For example, it played a significant role in the consolidation and interpretation of constitutional law in Bosnia and Herzegovina and, at the European Union’s request, helped in finding legal solutions to the conflicts in several states in the former Yugoslavia.





Who can refer a matter to the Commission?

MEMBER STATES

- ▶ Parliaments
- ▶ Governments
- ▶ Courts
- ▶ Ombudspersons

COUNCIL OF EUROPE

- ▶ Secretary General
- ▶ Committee of Ministers
- ▶ Parliamentary Assembly
- ▶ Congress of Local and Regional Authorities

INTERNATIONAL ORGANISATIONS

- ▶ European Union
- ▶ OSCE/ODIHR
- ▶ other international organisations involved in the Commission's work

AMICUS CURIAE OPINIONS

- ▶ The Commission may also provide *amicus curiae* opinions at the *request of a constitutional court* or the European Court of Human Rights. These opinions are not on the constitutionality of the act concerned, but on comparative constitutional and international law issues. The Commission also co-operates with *ombudspersons* through *amicus ombud* opinions mainly on the legislation that governs their work.

PREPARATION OF AN OPINION

- ▶ *Submission to the Commission of a (draft) constitutional or legislative text by a national or international body or the Council of Europe**
- ▶ *Setting up a working group of rapporteur members and experts assisted by the secretariat*
- ▶ *Comments by the rapporteurs on compliance of the text with international standards and practice*
- ▶ *Visit to the country for talks with the authorities, civil society and other interested stakeholders*
Final draft opinion
- ▶ *Submission of the draft opinion to all members of the Commission before the plenary session*
- ▶ *Discussion of the draft opinion in a sub-commission and with the national authorities (if necessary)*
- ▶ *Discussion and adoption of the opinion at plenary session*
- ▶ *Submission of the opinion to the body which requested it*
- ▶ *Posting of the final text of the opinion on the Commission's website: www.venice.coe.int*

* Request for opinion may be sent to the President or the Secretary of the Commission by e-mail / fax / post.

MORE INFORMATION:

VENICE COMMISSION

- ▶ DG-I, Council of Europe
67075 Strasbourg Cedex France
Tel.: +33 3 88 41 20 67
Fax: +33 3 88 41 37 38
E-mail: venice@coe.int

FOR PRESS CONTACTS

- ▶ Tatiana MYCHELOVA
Tel : +33 3 88 41 38 68
E-mail: tatiana.mychelova@coe.int

www.venice.coe.int

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.