

784th meeting – 21 February 2002

Appendix 13

(item 10.3)

Resolution Res(2002)3 adopting the revised Statute of the European Commission for Democracy through Law

*(Adopted by the Committee of Ministers on 21 February 2002
at the 784th meeting of the Ministers' Deputies)*

The Representatives on the Committee of Ministers of the states members of the Partial Agreement establishing the European Commission for Democracy through Law¹,

Recalling Resolution (90) 6 on a Partial Agreement establishing the European Commission for Democracy through Law;

Having regard to the decision taken at the 484bis meeting of the Ministers Deputies in December 1992 to maintain for the future the structure of the Commission as a Partial Agreement of the Council of Europe;

Having regard to Statutory Resolution (93) 28 on Partial and Enlarged Agreements;

Welcoming the interest expressed by many non member states of the Council of Europe in the work of the Commission and wishing to give to these states the possibility to take part in the work of the Commission on an equal footing;

Convinced that the independent character of the Commission and its flexible working methods are the key to its success and have to be safeguarded;

Desirous to further develop the Statute of the Commission in the light of the experience acquired,

Decide that the European Commission for Democracy through Law shall henceforth be an Enlarged Agreement governed by the provisions of the appended revised Statute which shall enter into force upon adoption of this Resolution.

¹ Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

**Revised Statute
of the European Commission for Democracy through Law**

Article 1

1. The European Commission for Democracy through Law shall be an independent consultative body which co-operates with the member states of the Council of Europe, as well as with interested non-member states and interested international organisations and bodies. Its own specific field of action shall be the guarantees offered by law in the service of democracy. It shall fulfil the following objectives:

- strengthening the understanding of the legal systems of the participating states, notably with a view to bringing these systems closer;
- promoting the rule of law and democracy ;
- examining the problems raised by the working of democratic institutions and their reinforcement and development.

2. The Commission shall give priority to work concerning:

- a. the constitutional, legislative and administrative principles and techniques which serve the efficiency of democratic institutions and their strengthening, as well as the principle of the rule of law;
- b. fundamental rights and freedoms, notably those that involve the participation of citizens in public life;
- c. the contribution of local and regional self-government to the enhancement of democracy.

3. With a view to spreading the fundamental values of the rule of law, human rights and democracy, the Commission encourages the setting up of similar bodies in other regions of the world and may establish links with them and run joint programmes within its field of activity.

Article 2

1. The Commission shall be composed of independent experts who have achieved eminence through their experience in democratic institutions or by their contribution to the enhancement of law and political science. The members of the Commission shall serve in their individual capacity and shall not receive or accept any instructions.

2. There shall be one member and one substitute in respect of each member state of the Enlarged Agreement. The member and substitute shall be appointed by the member state concerned and shall have the qualifications required by the first paragraph of this article as well as the capacity and availability to serve on the Commission.

3. Members shall hold office for a four-year term and may be reappointed. During their term of office members may only be replaced if they have tendered their resignation or if the Commission notes that the member concerned is no longer able or qualified to exercise his or her functions.

4. Representatives of the Committee of Ministers, the Parliamentary Assembly, the Congress of Local and Regional Authorities of Europe and the Giunta of the Regione Veneto may attend the sessions of the Commission.
5. The Committee of Ministers may by the majority stipulated in Article 20.d of the Statute of the Council of Europe invite any non-member state of the Council of Europe to join the Enlarged Agreement. Members appointed by non-member states of the Council of Europe shall not be entitled to vote on questions raised by the statutory bodies of the Council of Europe.
6. The European Community shall be entitled to participate in the work of the Commission. It may become a member of the Commission according to modalities agreed with the Committee of Ministers.
7. The Committee of Ministers may, by the majority stipulated in Article 20.d of the Statute of the Council of Europe, authorise the Commission to invite international organisations or bodies to participate in its work.
8. Any state authorised in the past to participate in the work of the Commission in the capacity of associate member or observer may continue to do so unless it joins the Commission as a member. Observers are invited to the sessions of the Commission depending on the items on the agenda. The rules governing members shall apply *mutatis mutandis* to associate members and observers.

Article 3

1. Without prejudice to the competence of the organs of the Council of Europe, the Commission may carry out research on its own initiative and, where appropriate, may prepare studies and draft guidelines, laws and international agreements. Any proposal of the Commission can be discussed and adopted by the statutory organs of the Council of Europe.
2. The Commission may supply, within its mandate, opinions upon request submitted by the Committee of Ministers, the Parliamentary Assembly, the Congress of Local and Regional Authorities of Europe, the Secretary General, or by a state or international organisation or body participating in the work of the Commission. Where an opinion is requested by a state on a matter regarding another state, the Commission shall inform the state concerned and, unless the two states are in agreement, submit the issue to the Committee of Ministers.
3. Any state which is not a member of the Enlarged Agreement may benefit from the activities of the Commission by making a request to the Committee of Ministers.
4. The Commission co-operates with constitutional courts and courts of equivalent jurisdiction bilaterally and through associations representing these courts. In order to promote this co-operation, the Commission may set up a Joint Council on Constitutional Justice composed of members of the Commission and representatives from co-operating courts and associations.
5. Furthermore, the Commission may establish links with documentation, study and research institutes and centres.

Article 4

1. The Commission shall elect from among its members a Bureau, composed of the President, three Vice-Presidents and four other members. The term of office of the President, the Vice-Presidents and the other members of the Bureau shall be two years. The President, the Vice-Presidents and the members of the Bureau may be re-elected.
2. The President shall preside over the work of the Commission and shall represent it. One of the Vice-Presidents shall replace the President whenever he or she is unable to take the Chair.
3. The Commission shall meet in plenary session as a rule four times a year. Its Sub-Commissions may meet whenever necessary.
4. The Commission shall establish its procedures and working methods in the Rules of Procedure and shall decide on the publicity to give to its activities. The working languages of the Commission shall be English and French.

Article 5

1. Whenever it considers it necessary, the Commission may be assisted by consultants.
2. The Commission may also hold hearings or invite to participate in its work, on a case-by-case basis, any qualified person or non-governmental organisation active in the fields of competence of the Commission and capable of helping the Commission in the fulfilment of its objectives.

Article 6

1. Expenditure relating to the implementation of the programme of activities and common secretariat expenditure shall be covered by an Enlarged Agreement budget funded by the member states of the Enlarged Agreement and governed by the financial rules as foreseen for Enlarged Agreement budgets of the Council of Europe, subject to the following modifications:
 - a) the rate of contribution of a non member state of the Council of Europe to the Enlarged Agreement Budget shall be one third of its contribution as calculated in accordance with the rules for Council of Europe member states; however, it shall not be higher than one-third of the contribution by the major contributors;
 - b) the Commission shall propose, after having consulted the member states of the Enlarged Agreement not members of the Council of Europe, its draft annual budget to the Committee of Ministers for adoption.
2. In addition, the Commission may accept voluntary contributions, which shall be paid into a special account opened under the terms of Article 4.2 of the Financial Regulations of the Council of Europe. Other voluntary contributions can be earmarked for specific research.
3. The Regione Veneto shall put a seat at the disposal of the Commission free of charge. Expenditure relating to the local secretariat and the operation of the seat of the Commission

shall be borne by the Regione Veneto and the Italian Government, under terms to be agreed between these authorities.

4. Travel and subsistence expenses of each member of the Commission shall be borne by the State concerned. If the Commission entrusts members with specific missions, the expenses shall be borne by the budget of the Commission.

Article 7

Once a year, the Commission shall present to the Committee of Ministers a report on its activities containing also an outline of its future activities.

Article 8

1. The Commission shall be assisted by the Secretariat General of the Council of Europe, which shall also provide a liaison with the staff seconded by the Italian authorities at the seat of the Commission.

2. The staff seconded by the Italian authorities at the seat of the Commission shall not belong to the staff of the Council of Europe.

3. The seat of the Commission shall be based in Venice.

Article 9

1. The Committee of Ministers may adopt amendments to this Statute by the majority provided for under Article 20.d of the Statute of the Council of Europe, after consulting the Commission.

2. The Commission may propose amendments to this Statute to the Committee of Ministers, which shall decide by the above-mentioned majority.