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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

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

49th MEETING / 49^e REUNION

**OF THE COUNCIL FOR DEMOCRATIC ELECTIONS /
DU CONSEIL DES ELECTIONS DEMOCRATIQUES**

**Venice, 13 December 2014 at 2 p.m. /
Venise, le 13 décembre 2014 à 14 h**

MEETING REPORT / RAPPORT DE REUNION

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1. Adoption of the agenda / Adoption de l'ordre du jour

The Council adopted its agenda as it appears in document CDL-EL-OJ(2014)004ann.

2. Report on open and closed lists / Rapport sur les listes ouvertes et bloquées

Following the decision of the Council for Democratic Elections to issue a comparative report on this topic (see in particular the October and December 2012 meetings of the Council for Democratic Elections), a draft report on “proportional electoral systems: the allocation of seats inside the lists (open/closed lists)” has been prepared on the basis of comments by Mr Barrett, Mr Kask, Mr Mifsud Bonnici and Mr Kåre Vollan (expert, Norway) ([CDL\(2014\)058](#)). For this purpose, the Secretariat of the Venice Commission has prepared a comparative table on relevant national legislation ([CDL\(2014\)051](#)).

This report is part of the work on measures to improve the democratic character of elections in the member States of the Council of Europe (see Parliamentary Assembly report “for more democratic elections” ([Doc. 13021](#)) adopted in October 2012).

Mr Barrett introduced the draft Report. He explained the structure of the draft Report, made of two main parts, one giving an overview of the electoral systems in Europe and focusing in a second time on closed-list party systems; another part on the open-list party systems and the effects of the voter's choice. The draft Report reveals a great variety of proportional systems, notably among the open-list party systems. Among these systems, there are open-list systems with one preference offered to the voters; others with several preferences, some with a fixed number, some others with a variable number of preferences based on the number of seats to allocate in a constituency.

Further to the discussion, it was decided to slightly complement the draft Report in a few paragraphs, notably in the introductory part, before submitting it to the next March 2015 meeting of the Council.

The Council endorsed the draft Report on “proportional electoral systems: the allocation of seats inside the lists (open/closed lists)” ([CDL\(2014\)058](#)) and agreed to adopt a revised draft Report at the meeting of the Council for Democratic Elections of 19 March 2015 and to submit the draft Report to the plenary session of 20-21 March 2015.

3. Criteria for standing in local and regional elections / Critères pour l'éligibilité pour les élections locales et régionales

M. Delcamp a présenté le travail du Congrès des pouvoirs locaux et régionaux du Conseil de l'Europe sur les critères d'éligibilité pour les élections locales et régionales. Lors de sa réunion de juin 2014, le Conseil avait examiné un projet de rapport du Congrès sur les « Critères pour se présenter aux élections locales et régionales ». Le projet a ensuite été révisé, et le Secrétariat avait préparé un mémorandum commentant le projet de rapport révisé (CG/GOV(27)5rev6, 1^e version). Ce mémorandum constatait que la plupart des remarques du précédent mémorandum (du 19 mai 2014) avaient été prises en compte, notamment celles concernant la distinction entre inéligibilités et incompatibilités. Il contenait cependant un certain nombre de remarques de détail, l'une suggérant d'indiquer de manière explicite que les effets de quotas de genre sont différents selon que l'on se trouve dans un système de listes ouvertes ou de listes bloquées. Pour le reste, il était renvoyé au mémorandum.

La Commission de la gouvernance du Congrès a approuvé ce document le 17 novembre 2014, avec quelques amendements (CG/GOV(27)5rev6, 2^e version). Cette Commission n'a pas pu prendre encore en considération les commentaires du Secrétariat, mais est prête à le faire pour une prochaine réunion.

Le Conseil prend note du projet de rapport du Congrès, tel que légèrement révisé au 1^{er} décembre 2014, sur l'éligibilité pour les élections locales et régionales, ainsi que du mémorandum du secrétariat sur la question.

4. Electoral lists and voters abroad / Listes électorales et électeurs résidant de fait à l'étranger

M. Wienen presented the preliminary draft report on "electoral lists and voters abroad", approved by the Governance Committee of the Congress of local and regional authorities of the Council of Europe (CG/MON(26)13). The overall objective of the report was to establish and promote the respect of certain principles, mainly concerning the accuracy of the registration of voters' lists, transparency and integrity of the electoral process and the prevention of electoral fraud and manipulation of the electoral process.

Ms Christina Binder, from the University of Vienna, stressed also the tension between universal suffrage on the one side and the integrity and accuracy of voters lists on the other side. The report included the practices of 16 countries, chosen in order to include common and civil law systems, a wide geographical spread and similar problems in implementing provisions to ensure the accuracy of voters' lists.

Mr Alberto Guevara Castro intervened on behalf of Ms Alanis Figueroa. He presented the different solutions adopted in Latin American countries on the topic of voters residing de facto abroad. The paper explained the differences between Europe and Latin America and the efforts developed in most countries to tackle corruption, ensure integrity of voters lists and regulate the migratory phenomenon in Latin America.

Mr Delcamp announced that Ms Alanis' contribution would be included in the final report of the Congress on this topic.

The Council:

- requested Ms Binder and Ms Alanis Figueroa to provide comments on the memorandum prepared by the Secretariat on electoral lists and voters residing abroad (CDL-EL(2013)011);
- requested the Secretariat to prepare a paper on four countries which have recently faced challenges on the accuracy of voters' lists and organised the elections for voters residing abroad: Moldova, Tunisia, Bulgaria and Turkey.

5. Work of the International Standards Organization (ISO) on electoral processes / Travaux de l'Organisation internationale de normalisation (ISO) sur l'administration électorale

As reported in March 2014, the ISO-standard concerning the electoral administration was not adopted. This led to the adoption of the document as a technical specification (ISO/TS 17582:2014, Quality management systems). Mr Guevara Castro presented the briefing note prepared by Ms Alanis. It was underlined that most countries which voted against the adoption

of a standard and against the adoption of a technical specification or abstained were European. The principal reason for opposition to the standard was the threat of conflict with established practice or legal requirements for elections, as well as the fact that ISO is a private organisation. Most American countries voted in favour and a number of them already expressed formal interest in implementing it and even started to implement it (Ecuador, Peru). The standard was designed to be flexible and not rigid, and the specification is still under test.

The Council for Democratic Elections considered that:

- The participation in the different meetings concerning the ISO-standardisation process in the electoral field had as an objective to ensure that its contents were not against the Venice Commission recommendations in the field. The efforts of Ms Alanis to revise the technical specification were welcomed;
- The Council does not approve or oppose the use of ISO-standards in the electoral field. It is the sovereign choice of each state and of its electoral management bodies to decide whether ISO-standards can be used or not in their internal organisation of the electoral processes. However, election processes differ from country to country and there is no need for standardisation as such. ISO is not legally binding in any country;
- An ISO-standard is in no case a guarantee for better elections and it can never be used to validate election results.

6. Co-operation with the Organization of American States (OAS) / Coopération avec l'Organisation des Etats américains (OEA)

This item was postponed to a next meeting of the Council for Democratic Elections due to the impossibility of Mr Gerardo de Icaza to attend the meeting.

7. European Conference of Electoral Management Bodies (information item) / Conférence européenne des administrations électorales (point d'information)

Le secrétariat informe le Conseil de l'avancement de la préparation de la 12^e Conférence européenne des administrations électorales, qui se tiendra à Bruxelles les 30 et 31 mars 2015 sur «La garantie de la neutralité, de l'impartialité et de la transparence des élections : le rôle des administrations électorales». La conférence sera organisée dans le cadre de la présidence belge du Comité des Ministres du Conseil de l'Europe, conjointement avec le ministère de l'Intérieur de la Belgique.

Le thème de la conférence est le suivant : Garantir la neutralité, l'impartialité et la transparence des élections : le rôle des administrations électorales. Les sous-thèmes sont les suivants :

- I. Première session plénière : Les éléments essentiels à des élections neutres, impartiales et transparentes.
 - II. Deuxième session plénière : La composition et le fonctionnement des administrations électorales: les bonnes pratiques.
 - III. Troisième session plénière : Les outils complémentaires au travail des administrations électorales : le contentieux électoral, l'observation des élections et la couverture médiatique.
- Session plénière de clôture : Discussion sur et adoption de la Déclaration finale de la conférence.

8. Information about the current work and future activities / Information sur les travaux en cours et futurs

Following the meeting of the Council in June 2014, the Secretariat informed of the following 14 activities in the electoral field:

- Round Table on electoral disputes and training workshop for judges of administrative courts in Tunisia (Tunis, 24-26 June 2014);
 - 11th European Conference of Electoral Management Bodies (Helsinki, 26-27 June 2014), entitled "Combating the misuse of administrative resources during electoral processes";
 - 23rd Annual Conference of the Association of European Election Officials (ACEEEO) on "The participation of women in the electoral process and in public life" and "planning of a general election" (Bucharest, 4-6 September 2014);
 - Training session on electoral disputes for judges of administrative courts in Tunisia (Tunis, 10-11 September 2014);
 - Post-electoral Conference in Georgia (2014 local elections: lessons learned and next steps) (Tbilisi, 16 September 2014);
 - Assistance to the Central Electoral Commission of Moldova, on electoral disputes and including training of trainers (21-26 September 2014);
 - Assistance to the Parliamentary Assembly observation mission on the occasion of the parliamentary elections in Bulgaria (5 October 2014);
 - Workshop on the resolution of electoral disputes; organised prior to the Parliamentary elections in Ukraine (Kiev, 7 October 2014);
 - Assistance to the Parliamentary Assembly observation mission on the occasion of the parliamentary elections in Tunisia (26 October 2014);
 - Assistance to the Parliamentary Assembly observation mission on the occasion of the parliamentary elections in Ukraine (26 October 2014);
 - Participation in the 5th Council of Europe Review Meeting to examine developments in E-voting since the adoption of Recommendation Rec(2004)11 on legal, operational and technical standards for e-voting (Bregenz, 28 October 2014);
 - Assistance to the Parliamentary Assembly observation mission on the occasion of the first round of the presidential elections in Tunisia (23 November 2014);
 - Participation in the IXth Inter-American meeting of electoral authorities (Lima, 24-25 November 2014);
 - Assistance to the Parliamentary Assembly observation mission on the occasion of the parliamentary elections in Moldova (30 November 2014).
- Le Secrétariat a aussi informé le Conseil :
 - de l'avancement de l'étude sur la méthode de désignation des candidats au sein des partis politiques. Cette étude s'inscrit dans le cadre des travaux sur les mesures pour améliorer le caractère démocratique des élections dans les pays membres du Conseil de l'Europe (cf. point 2) ; un questionnaire a été préparé et envoyé l'année dernière non seulement à tous les membres, mais également aux groupes politiques représentés à l'Assemblée. Le secrétariat a introduit toutes les réponses reçues dans un tableau réunissant les réponses aux différentes questions posées, tant en ce qui concerne les dispositions juridiques nationales pertinentes que la pratique des partis politiques. Le tableau contient des informations relatives à 25 pays. Sur la base des commentaires des rapporteurs de cette étude, Mme Alanis, M. Craig, Mme Biglino et M. Xuclá, attendus pour début janvier, un premier projet de rapport sera soumis au CED en mars 2015.
 - du projet présenté dans le cadre du Programme du Partenariat oriental de l'Union européenne pour les années 2015-2017. Ce projet prévoit une coopération avec l'Arménie, la Géorgie, la Moldova et l'Ukraine, afin d'assurer la conformité de la législation et de la pratique électorales avec les normes

internationales ; cela inclut, en ce qui concerne la Commission de Venise (d'autres activités seront réalisées par la DGII) :

- concernant la législation électorale, des avis de la Commission ;
- concernant la pratique électorale :
 - le renforcement des capacités de l'administration électorale ; et
 - des activités relatives au contentieux électoral, notamment des séminaires avec les juges compétents.

9. Cooperation with the OSCE/ODIHR / Coopération avec l'OSCE/BIDDH

An exchange of views took place with Mr Richard Lappin, election adviser, representative of the OSCE/ODIHR, on the possibilities of future co-operation.

Mr Lappin informed the Council on its current and future activities in the electoral field:

- Ongoing activities: Limited Election Observation Mission to Uzbekistan on 21 December 2014, parliamentary elections.
- Upcoming activities: an Election Observation Mission will be deployed in mid-January to Tajikistan for the 1 March parliamentary elections. In 2015, some 21 elections are already on the OSCE/ODIHR calendar,¹ *inter alia*:
 - United Kingdom, Uzbekistan and Denmark in the first half of the year, Azerbaijan, Kyrgyzstan and Belarus in the second half of the year;
 - a possible observation of the local elections in Albania and Moldova.
- Follow-up activities will be a key part of ODIHR's work in 2015, with visits already planned to Iceland, the Czech Republic and Turkmenistan in early 2015, to discuss legal amendments and practical measures.
- A roundtable on electoral dispute resolution could be held by ODIHR in early March in Warsaw. More information will follow.
- Regarding the OSCE/ODIHR handbooks,
 - the following publications were released in the last 6 months:
 - Guidelines for Reviewing Legal Frameworks for Elections;
 - Handbook on Observing and Promoting Participation of National Minorities in Electoral Processes.
 - In January 2015, the OSCE/ODIHR will publish a Handbook on Observing Campaign Finance.

10. Date of the next meeting / Date de la prochaine réunion

The next meeting of the will take place on Thursday 19 March 2015 at 10 a.m.

¹ For more details, see: <http://www.osce.org/odihr/elections>.

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

VENICE COMMISSION / COMMISSION DE VENISE

Members of the Council for Democratic Elections (CDE) / Membres du Conseil des Elections démocratiques (CED)

Ms Maria del Carmen ALANIS FIGUEROA (excusée/apologised)
Mr Srdjan DARMANOVIC
Mr Aivars ENDZINS
Mr Oliver KASK (**Vice-Chair/Vice-Président**) (excusé/apologised)

Substitute Members of the CDE / Membres suppléants du CED

Mr Richard BARRETT
Ms Paloma BIGLINO CAMPOS (excusée/apologised)
Mr Paul CRAIG
Mr Ben VERMEULEN

Other members participated at the meeting / Autres membres ayant participé à la réunion

M. Gianni BUQUICCHIO (President/Président) (excusé/apologised)
Mr Manuel GONZALEZ OROPEZA (excusé/apologised)

Secretariat / Secrétariat

M. Thomas MARKERT
Mme Simona GRANATA-MENGHINI
M. Pierre GARRONE (excusé/apologised)
M. Gaël MARTIN-MICALLEF
Ms Amaya UBEDA

Other participant / Autre participant

Mr Alberto GUEVARA CASTRO

PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIRE

Members / Membres

Mme Josette DURRIEU, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie (excusée/apologised)
M. Andreas GROSS, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme (**Chair/Président**)
Mr Jordi XUCLÀ, Monitoring Commission/ Commission de suivi

Substitute Members / Membre suppléants

Ms Tinatin KHIDASHELI, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie (excusée/apologised)
Mr Michael McNAMARA, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme (excusé/apologised)

Secretariat / Secrétariat

Mr Chemavon CHAHBAZIAN

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

Members / Membres

Ms Gudrun MOSLER-TÖRNSTRÖM, Chamber of Regions/Chambre des régions (excusée/apologised)

Mr Jos WIENEN, Chamber of Local Authorities/Chambre des pouvoirs locaux

Substitute Member / Membre suppléant

Ms Pearl PEDERGNANA

Experts

Ms Christina BINDER

M. Alain DELCAMP

Secretariat / Secrétariat

Ms Renate ZIKMUND

DIRECTORATE GENERAL OF DEMOCRACY / DIRECTION GENERALE DE LA DEMOCRATIE (DGII)

M. François FRIEDERICH (excusé/apologised)

OBSERVERS / OBSERVATEURS

ORGANIZATION OF AMERICAN STATES / ORGANISATION DES ETATS AMERICAINS

Mr Gerardo DE ICAZA (excusé/apologised)

OSCE

ODIHR / BIDDH

Mr Richard LAPPIN

EUROPEAN UNION / UNION EUROPEENNE

European External Action Service (EEAS)

Ms Emanuele GIAUFRET (excusée/apologised)

Ms Lora BORISSOVA (excusée/apologised)