



Support to the Constitutional Court in Applying and Disseminating European Human Rights Standards

Workshop for judges and legal advisors of the Constitutional Court

Electoral Disputes and European Convention on Human Rights

6-7 June 2022,

Pristina, Venus Hotel

Free and fair elections is the cornerstone of every participatory democracy. Article 3 of the Protocol No. 1 to the European Convention on Human Rights, guarantees to all citizens of Europe free and democratic elections. Even though it is limited in scope to the election of the “legislature” and does not afford an unlimited right, European protection of the right to free elections is of great significance. According to the Preamble to the Convention, “fundamental human rights and freedoms are best maintained by ‘an effective political democracy’. Since it enshrines a characteristic principle of democracy, Article 3 of Protocol No. 1 is accordingly of prime importance in the Convention system”¹.

The aim of the workshop is to introduce relevant standards set in the European Convention on Human Rights related to electoral disputes and to present relevant caselaw of the European Court of Human Rights (ECtHR). Professional exchange will be facilitated between judges and legal advisors of the Constitutional Court of Kosovo* and international experts on practical aspects related to electoral dispute resolution through the application of the Article 3 of Protocol 1 of the ECHR. In addition, it will be good opportunity to recapitulate standards developed by OSCE’s Office of Democratic Institution and Human Rights (ODIHR) and European Commission for Democracy through Law, Venice Commission.

The basis for the workshop is the toolkit for electoral disputes published by the Council of Europe: Electoral Dispute Resolution, Toolkit for Strengthening Electoral Jurisprudence. In addition, Guide on Article 3, Protocol 1, of the ECHR, and relevant materials developed by ODIHR, such as Handbook for the Observation of Election Dispute Resolution and others relevant, will be also used as a reference material.

The workshop will also provide platform for analysis of the landmark cases of the Constitutional Court of Kosovo in the context of very frequent elections in Kosovo, and disputes arose in different stages of electoral process starting from voter registration phase, over conducting pre-electoral campaign activities up to casting the ballots, counting and post-electoral activities.

The workshop’s duration is two working days, with the participation of four international experts, integrating practical aspects and experience through case studies/caselaw analyses. Room for interaction with participants will be ensured in every session in a peer-to-peer setting.

¹ (*Mathieu-Mohin and Clerfayt v. Belgium*, 1987, § 47)

Draft agenda

Day 1

9.15 – 9.30	<i>Registration of participants</i>
9.30 -9.45	Welcoming remarks and introduction to the training objective (content, objective, expected outcome) <ul style="list-style-type: none"> • Ljubisa Bascarevic, CoE Project officer
9.45 - : 11.15	Setting the context: ECHR jurisprudence and international standards on democratic elections <ul style="list-style-type: none"> • Dmytro Tretyakov, Senior Lawyer, Registry of the ECtHR
11 :15 -11 :30	<i>Coffee break</i>
11.30 -13.00	The right to vote and to stand for election, standards and practice <ul style="list-style-type: none"> • Vasil Vashchanka, ODIHR Election Expert • Dmytro Tretyakov, Senior Lawyer, Registry of the ECtHR
13.00 -13.45	Discussion
13.45 -14.45	<i>Lunch</i>
14.45 -16.00	Administration of elections and post-electoral disputes in comparative perspective <ul style="list-style-type: none"> • Vasil Vashchanka, ODIHR Election Expert • Dmytro Tretyakov, Senior Lawyer, Registry of the ECtHR
16.00 -16.15	<i>Coffee break</i>
16.15 – 17.00	Electoral Disputes – Aspects related to Pre-electoral Campaigning <ul style="list-style-type: none"> • Ivan Godársky, International Election Specialist, Media Legal Affairs
17.00 - 17.15	Summing up of Day 1

Day 2

9.15 – 9.30	Registration of participants
9.30 – 11.00	Electoral Dispute Resolution - Perspective of Venice Commission, standards and practice <ul style="list-style-type: none"> • Gaël Martin-Micallef, Legal Officer, Venice Commission
11.00 -11.15	<i>Coffee break</i>
11.15 – 12.30	Overview of electoral legislation of Kosovo* <ul style="list-style-type: none"> • Gaël Martin-Micallef, Legal Officer, Venice Commission • Vasil Vashchanka, ODIHR Election Expert • Nathania Tabone, OMIK Senior Election Legal Adviser

12.30 -13.30	Discussion
13.30 – 14.30	<i>Lunch break</i>
14.30 -15.30	Practical Application of the Article 3, Protocol 1 ECHR - Case study/exercise <ul style="list-style-type: none">• Dmytro Tretyakov, Senior Lawyer, Registry of the European Court of Human Rights
15.30 – 15.45	<i>Coffee break</i>
15.45 – 16.45	Electoral Disputes - Aspects related to Pre-electoral Campaigning in Media <ul style="list-style-type: none">• Ivan Godársky, International Election Specialist, Media Legal Affairs
16.45- 17.00	<i>Conclusions</i>