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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**PRELIMINARY DRAFT CODE OF GOOD PRACTICE  
IN ELECTORAL MATTERS**

**Prepared by the Secretariat of the Commission**

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*On 8 November 2001 the Standing Committee of the Parliamentary Assembly, acting on behalf of the Assembly, adopted Resolution 1264 (2001) inviting the Venice Commission<sup>1</sup>:*

- i. to set up a working group, comprising representatives of the Parliamentary Assembly, the CLRAE and possibly other organisations with experience in the matter, with the aim of discussing electoral issues on a regular basis;*
- ii. to devise a code of practice in electoral matters which might draw, inter alia, on the guidelines set out in the appendix to the explanatory memorandum of the report on which this resolution is based (Doc. 9267), on the understanding that this code should include rules both on the run-up to the election, the elections themselves and on the period immediately following the vote;*
- iii. as far as its resources allow, to compile a list of the underlying principles of European electoral systems by co-ordinating, standardising and developing current and planned surveys and activities. In the medium term, the data collected on European elections should be entered into a data base, and analysed and disseminated by a specialised unit.*

*The following draft is the first concrete response to the three aspects of this resolution, and is being submitted at the first meeting of the joint working group provided for in the text. It is based on the underlying principles of European electoral systems, which it defines. Lastly, and above all, it comprises a code of good practice in electoral matters. This last includes guidelines that take up the essential element of the code.*

*As requested in the Parliamentary Assembly's resolution, this preliminary draft code of good practice is based on the guidelines appended to the explanatory memorandum to the report on which the Assembly resolution was based (Doc. 9267). It is also based on the work of the Venice Commission in the electoral field, as summarised in Document CDL (2002) 7.*

## **Introduction**

Alongside human rights and the rule of law, democracy is one of the three pillars of the European constitutional heritage, as well as of the Council of Europe. Democracy is inconceivable without elections held in accordance with certain principles that lend them their democratic status.

These principles represent a specific aspect of the European constitutional heritage, that can legitimately be termed the "European electoral heritage". The present code of good practice is aimed at defining the principles and pinpointing the prerequisites for their application. It will therefore be divided into two parts, the first dedicated to defining the principles of the "European electoral heritage" and their practical implications, and the second describing the conditions necessary for their implementation.

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<sup>1</sup> Item 6; see Doc. 9267, Report by the Political Affairs Committee; Rapporteur: Mr Clerfayt.

## **I. The underlying principles of European electoral systems**

### **1. The five principles and their legal basis**

If elections are to comply with the common principles of the European constitutional heritage, which form the basis of any genuinely democratic society, they must observe five fundamental rules: *suffrage must be universal, equal, free, secret and direct*. Furthermore, elections must be held *periodically*. All these principles together constitute the European electoral heritage.

Although all five principles are conventional in nature, their implementation raises a number of questions that call for close scrutiny. We would do well to identify the “hard core” of these principles, which must be scrupulously respected by all European states.

The hard core of the European electoral heritage consists mainly of international rules. The relevant universal rule is Article 25 (b) of the International Covenant on Civil and Political Rights, which expressly provides for of these principles except direct suffrage, although the latter is implied<sup>2</sup>. The common European rule is Article 3 of the Additional Protocol to the European Convention on Human Rights, which explicitly provides for the right to periodical elections by free and secret suffrage<sup>3</sup>; the other principles have also been recognised in human rights case-law<sup>4</sup>. The right to direct elections has also been admitted by the Strasbourg Court, at least implicitly<sup>5</sup>. However, the constitutional principles common to the whole continent do not figure in the international texts: on the contrary, they are often mentioned in more detail in the national constitutions<sup>6</sup>. Where the legislation and practice of different countries converge, the content of the principles can be more accurately pinpointed.

### **2. Universal suffrage**

Universal suffrage covers both active (the right to vote) and passive electoral rights (the right to stand for election). The right to vote and stand for election may be subject to a number of conditions, usually concerning *age* and *nationality*. Where the latter condition is concerned, however, a tendency is emerging to grant local political rights to long-standing foreign residents, in accordance with the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level<sup>7</sup>. Furthermore, under the European integration process European citizens have been granted the right to vote and stand for election in municipal and European Parliament elections in their EU member state of residence<sup>8</sup>. The nationality criterion can, however, sometimes cause problems if a state withholds citizenship

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<sup>2</sup> See Art. 21 of the Universal Declaration of Human Rights.

<sup>3</sup> Article 3, Right to free elections: “The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature”.

<sup>4</sup> Where universality is concerned, cf. ECHR No. 9267/81, judgment of Mathieu-Mohin and Clerfayt vs. Belgium, 2 March 1997, Series A vol. 113, p. 23; judgment of Gitonas and others vs. Greece, 1 July 1997, No. 18747/91, 19376/92; 19379/92, 28208/95 and 27755/95, Collected Judgments and Decisions, 1997-IV, p. 1233; re. equality, cf. aforementioned judgment of Mathieu-Mohin and Clerfayt, p. 23.

<sup>5</sup> ECHR No. 24833/94, judgment of Matthews vs. the United Kingdom, 18 February 1999, Collected Judgments and Decisions 1999-I, para. 64.

<sup>6</sup> e.g. Art. 38.1 of the German Constitution, Arts. 68.1 and 69.2 of the Spanish Constitution and Art. 59.1 of the Romanian Constitution.

<sup>7</sup> ETS 144.

<sup>8</sup> Art. 19 of the Treaty establishing the European Community.

from persons having been settled in its territory for several generations, for instance on linguistic grounds<sup>9</sup>. Moreover, under the European Convention on Nationality<sup>10</sup> persons holding dual nationality must have the same electoral rights as other nationals<sup>11</sup>.

Thirdly, the right to vote and/or the right to stand for election may be subject to *residence* conditions<sup>12</sup>; where local elections are concerned, the residence criterion is not incompatible *a priori* with the principle of universal suffrage, if the residence period specified does not exceed a few months; any longer period can only be acceptable in exceptional cases<sup>13</sup>. Conversely, quite a few states grant their nationals living abroad the right to vote, and even to be elected. This practice can prove rather difficult in some special cases, e.g. where nationality is granted on an ethnic basis. One characteristic example is Croatia's conferral of political rights on Croats living in Bosnia-Herzegovina.

Lastly, provision may be made for *clauses suspending political rights*. However, such clauses must have a clear legal basis, and their application must be ordered by a court, be justified by a prohibition on medical grounds or a criminal conviction, and comply with the principle of proportionality<sup>14</sup>.

6. The proper maintenance of *electoral lists* is vital in guaranteeing universal suffrage. However, it is acceptable for voters not to be included automatically on the lists, but only at their request. In practice, electoral lists are often discovered to be inaccurate, which leads to disputes<sup>15</sup>. Lack of experience on the part of the authorities, population shifts and the fact that few citizens bother to check the electoral lists when they are presented for inspection make it difficult to compile these lists. A number of conditions must be met if the lists are to be reliable:

- i. There must be permanent electoral lists.
- ii. There must be regular annual updates, at clearly defined intervals, so that municipal (local) authorities get into the habit of performing the various tasks involved in updating at the same time every year. Where registration of voters is not automatic, a fairly long time-period must be allowed for such registration.
- iii. The provisional update must be published.
- iv. The final update should be sent to a higher authority under the supervision of the electoral commission.
- v. A supplementary list can enable persons who have changed address or reached the statutory voting age since the final list was published, to vote. Drawing up a

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<sup>9</sup> See *Doc. 8255*, *Observation of parliamentary elections in Latvia (3 October 1998)*; rapporteurs: Mr Elo, Finland, SOC, and Mrs Fehr, Switzerland, LDR.

<sup>10</sup> ETS 166, Art. 17

<sup>11</sup> *The ECHR does not go so far: Eur. Comm. HR No. 28858/95, judgment 25.11.96 Ganchev vs. Bulgaria, DR 87, p. 130.*

<sup>12</sup> See most recently ECHR No. 31891/96, judgment 7.9.99, *Hilbe vs. Liechtenstein*.

<sup>13</sup> See *Eur. Comm. HR No. 23450/94, judgment 15.9.97, Polacco and Garofalo vs. Italy (re. Trentino-Alto Adige)*.

<sup>14</sup> See e.g. ECHR No. 26772/95, judgment *Labita vs. Italy*, 6 April 2002, paras. 201 ff.

<sup>15</sup> See *Doc. 8448; Ad Hoc Committee to observe the parliamentary elections in Armenia (30 May 1999)*; Rapporteur: Mrs Gelderblom-Lankhout, Netherlands, LDR.

supplementary list requires close co-operation between the local authorities and the court of first instance. In some countries, the closing date for entry in the supplementary list may be, for example, 15 days before the election or election day itself. The latter case, whilst admirably broad-minded, relies on decisions made by a court obliged to sit on polling day, and is thus ill-suited to the organisational needs on which democracies are based. Polling stations should not be permitted, therefore, to register voters on election day itself.

The obligation to collect a specific number of *signatures* in order to be able to stand is theoretically compatible with the principle of universal suffrage. In practice, only the most marginal parties seem to have any difficulty gathering the requisite number of signatures, provided that the rules on signatures are not used to bar candidates from standing for office. In order to prevent such manipulation, it is preferable for the law to set a maximum 1% signature requirement<sup>16</sup>. The signature verification procedure must follow clear rules and be applied to all the signatures rather than just a sample<sup>17</sup>. In all cases candidatures must be validated at least one month before the election date, because late validation places some parties and candidates at a disadvantage in the campaign.

There is another procedure where candidates or parties must pay a deposit, which is only refunded if the candidate or party concerned goes on to win more than a certain percentage of the vote. Such practices are contrary to the liberalist ideas popular among “democrats” in the new democracies but appear to be more effective than collecting signatures.

### **3. Equal suffrage**

Equality in electoral matters comprises a variety of aspects. Some concern equality of suffrage, a value shared by the whole continent, while others go beyond this concept and cannot be deemed to reflect any common standard. The principles to be respected in all cases are numerical vote equality, equality in terms of electoral strength and equality of chances. On the other hand, equality of outcome achieved, for instance, by means of proportional representation of the parties or the sexes, cannot be imposed.

#### **3.1 Numerical vote equality**

*Numerical vote equality* requires each voter to be entitled to one vote, and to one vote only. Multiple voting, which is still a common irregularity in the new democracies, is obviously prohibited.

#### **3.2 Equality in terms of electoral strength**

*Equality in terms of electoral strength*, where the elections are not being held in one single constituency, requires constituency boundaries to be drawn in such a way that seats in the *lower chambers* representing the people are distributed equally among the constituencies, in accordance with a specific method of apportionment, e.g. the number of residents in the constituency, the number of resident nationals (including minors), the number of registered electors, or possibly the number of voters taking part in the election. When this principle is

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<sup>16</sup> CDL (99) 66, p. 9.

<sup>17</sup> CDL-INF (2000) 17, pp. 4-5; CDL (99) 67, pp 7-8.

not complied with, we are confronted with what is known as *electoral geometry*, in the form either of “active electoral geometry”, namely a distribution of seats causing inequalities in representation as soon as it is applied, or of “passive electoral geometry”, arising from protracted retention of an unaltered territorial distribution of seats and constituencies. Furthermore, under systems tending towards a non-proportional result, particularly majority vote systems, gerrymandering may occur, which consists in favouring one party by means of an artificial delimitation of constituencies.

Constituency boundaries may also be determined on the basis of geographical criteria and the administrative or indeed historic boundary lines, which often depend on geography.

The maximum admissible departure from the distribution method adopted depends on the individual situation, although it should seldom exceed 10% and never 15%, except in really exceptional circumstances (a demographically weak administrative unit of the same importance as others with at least one lower-chamber representative, or concentration of a specific national minority)<sup>18</sup>.

In multi-seat constituencies electoral geometry can easily be avoided by regularly allocating seats to the constituencies in accordance with the distribution method adopted. Where a single-seat majority system is used, each fresh distribution of seats involves redrawing constituency boundaries, something which should happen every ten years. The political ramifications of drawing electoral boundaries are such that the commission responsible for this task ought to comprise a geographer, a sociologist and representatives of the parties. The long-standing democracies have widely differing approaches to this problem, and operate along very different lines. The new democracies, therefore, should adopt simple criteria and easy-to-implement procedures, including a parliamentary vote on the commission’s proposals with the possibility of a single appeal.

### 3.3 Equality of chances

The concern to ensure *equality of chances* should prompt the state to show impartiality towards all the parties and candidates and to apply the same law uniformly to all. In particular, the *neutrality* requirement applies to the *electoral campaign* and *media coverage*, as well as to *public funding* of parties and campaigns. This means that there are two possible interpretations of equality: either “strict” equality or “proportional” equality. “Strict” equality means that the political parties are treated without regard to their present strength in parliament or among the electorate. It must apply to the use of public facilities for electioneering purposes. “Proportional” equality involves allocating, in proportion to the parties’ election results, such aids as airtime on radio and television or public funds.

The basic idea is that the main political forces should be able to voice their opinions in the main organs of the country’s media and that all the political forces should be allowed to hold meetings, including on public thoroughfares, distribute literature and exercise their right to post bills. All of these rights must be clearly regulated and any failure to observe them, either by the authorities or by the campaign participants, should carry a criminal penalty. But the fact is that media failure to provide impartial information about the election campaign and candidates is one of the most frequent shortcomings arising during elections<sup>19</sup>.

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<sup>18</sup> See CDL (98) 45, p. 3; CDL (99) 51, p. 8 and CDL (2000) 2, p. 5.

<sup>19</sup> Cf. *Doc. 8623, Ad Hoc Committee to observe the parliamentary elections in Russia (19 December 1999), Rapporteur: Mr David Atkinson, United Kingdom, EDG*, which points out that “the electoral campaign in the

The most important thing is to draw up a list of the media organisations in each country and to make sure that the candidates or parties are accorded sufficiently balanced amounts of airtime or advertising space, including on state radio and television stations. The authorities and parties participating in the campaign must be interviewed by the observers before the election, although it may be advisable in some cases to use organisations that specialise in media studies. Such matters can be covered by agreements between election monitoring organisations.

### 3.4 Equality and national minorities

In accordance with the principles of international law, the electoral law must guarantee equality for persons belonging to national minorities, which includes prohibiting any discrimination against them<sup>20</sup>. In particular, the national minorities must be allowed to set up political parties; the only possible exceptions are in extreme cases, as for other parties<sup>21</sup>. Constituency delimitations and quorum regulations must not be such as to form an obstacle to the presence of persons belonging to minorities in the elected body.

Certain measures may be taken to ensure minimum representation for minorities either by reserving seats for them<sup>22</sup> or by providing for exceptions to the normal rules on seat distribution, eg by waiving the quorum for the national minorities' parties<sup>23</sup>. However, candidates and electors must not be required to indicate their affiliation with any minority<sup>24, 25</sup>.

### 3.5 Equality and parity of the sexes

There are several approaches to guaranteeing if not equal representation then at least some degree of balance between women and men in elected bodies.

First, legislation can be adopted to facilitate the election of women by setting a compulsory minimum number of women for all lists of candidates. This is particularly useful where party lists are not blocked, because in such cases voters are free to choose either women or men. Obviously there is no guarantee here that they will choose both male and female candidates, possibly resulting in a gender imbalance within the elected body, although this will have been the electors' choice, especially in societies which have retained the traditional roles of men and women.

Parity goes even further, requiring the elected body to be made up of equal numbers of men and women. This is easier to achieve in fixed party-list systems, where it can be made compulsory to include alternating male and female candidatures throughout the lists. In

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*Russian media appeared to have been utterly unfair”, “often crossing the line to slander and libel”, and “certain media, both public and private, were clearly influenced by major stockholders, certain political circles or the administration to provide partial and incorrect information on certain political parties, blocs or candidates”.*

<sup>20</sup> Art. 4.1 of the Framework Convention for the Protection of National Minorities (ETS 157).

<sup>21</sup> Re. bans on political parties and similar measures, see CDL-INF (2000) 1.

<sup>22</sup> As is the case in Slovenia and Croatia.

<sup>23</sup> As is the case in Germany and Poland. Romanian law even provides for representation of minorities' organisations if they have secured a number of votes equivalent to 5% (only) of the average number of validly cast votes required for the election of a deputy to the lower house country-wide.

<sup>24</sup> Art.3 of the Framework Convention for the Protection of National Minorities (ETS 157).

<sup>25</sup> Re. electoral law and national minorities, see CDL-INF (2000) 4

order to avert any objection of unconstitutionality, parity can be imposed by amending the Constitution<sup>26</sup>.

#### 4. Free suffrage

Free suffrage comprises two different aspects: free formation of the elector's opinion, and free expression of this opinion, i.e. freedom of voting procedure and accurate assessment of the result.

##### 4.1 Free formation of the elector's opinion

*Free formation of the elector's opinion* partly overlaps with equality of chances. It requires the *state* to honour its duty of even-handedness, particularly where the use of the mass media, billposting, the right to demonstrate on public thoroughfares and the funding of parties and candidates are concerned. Furthermore, it requires lawfully presented candidatures to be submitted to the citizens' votes, and the presentation of specific candidatures to be prohibited only in exceptional circumstances, where necessitated by a greater public interest.

The authorities also have some positive obligations. They must give the electorate access to lists and candidates standing for election by means, for instance, of appropriate billposting.

Free formation of the elector's opinion may also be infringed by *individuals*, for example when they attempt to buy votes, a practice which the state is obliged to prevent or punish effectively.

##### 4.2 Free expression of the elector's opinion and combating electoral fraud

*Free expression* of the elector's opinion primarily requires strict observance of the *voting procedure*. In practice, electors should be able to cast their votes for registered lists of candidates, which means that they must be supplied with ballot papers bearing their names, ensuring that these papers can be deposited in a ballot box. The state must make available the necessary premises for electoral operations. Electors must be protected from threats or constraints liable to prevent them from casting their votes or from casting them as they wish, whether such threats come from the authorities or from individuals; the state is obliged to prevent and penalise such practices.

###### 4.2.1 Voting procedures

Voting procedures play a vital role in the overall electoral process because it is during voting that election fraud is most likely to occur.

In some countries the implementation of democratic practices requires a radical change of attitudes, which must be actively promoted by the authorities. In this respect some measures have to be taken to control the habits and reflexes dating back to the totalitarian

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<sup>26</sup> See Art. 3.2 of the French Constitution; cf. judgment of 18 November 1982, *Recueil des décisions du Conseil constitutionnel*, 1982, pp. 66 ff.

period. These “habits” and “reflexes” have a negative impact on the elections. Most of these irregularities, such as “family voting”<sup>27</sup> occur during the voting procedure.

All these observations lead us to the following conclusion: *the voting procedure must be kept simple. Compliance is therefore recommended with the criteria set out in the ensuing paragraphs.*

If the polling station officials represent a proper balance of political opinion fraud will be difficult, and the fairness of the ballot should be judged by two criteria alone: the number of signatures in the electoral register compared with the number of ballot papers in the ballot box (taking into account any ballot papers returned and replaced by the polling station officials). Human nature being what it is (and quite apart from any intention to defraud), it is difficult to achieve total accuracy with these two measures and any further controls such as numbered ballot paper stubs (stubs, not ballot papers) are best avoided.

Any unused ballot papers should remain at the polling station and should not be deposited or stored in different premises. As soon as the station opens, the ballot papers awaiting use must be in full view on the table of the senior station official. There should be no others stored in cupboards or other places.

The signing and stamping of ballot papers should not take place at the point when the paper is presented to the voter, because the signatories or one of the persons affixing the stamp might mark the paper so that the voter could be identified when it came to counting the votes, which would violate the secrecy of the ballot.

The voter should collect his or her ballot paper and no one else should touch it from that point on.

It is important that the polling station officials include multi-party representatives and that observers assigned by the candidates be present.

#### 4.2.1.1 Postal voting or proxy voting in certain circumstances

Postal voting and proxy voting are permitted in countries throughout the western world, but the pattern varies considerably. Postal voting, for instance, may be widespread in one country and prohibited in another owing to the danger of fraud. Proxy voting is usually subject to very strict rules, again in order to prevent fraud.

Neither of these practices should be widely encouraged in the new democracies given the problems with their postal service, on top of all the other difficulties inherent in this kind of voting, including the heightened risk of “family voting”. Subject to certain precautions, however, postal voting can be used for voting in hospitals, for persons in custody or for persons with restricted mobility. This would dispense with the need for a mobile ballot box, which often causes problems and risks of fraud. Postal voting would take place under a special procedure a few days before the election.

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<sup>27</sup> See section 1.5 below. For an example of family voting, see Doc. 7699 Addendum III ; Information report on the presidential elections in Moldova ; November 1996; rapporteurs : Mrs Durrieu (France, Soc), Mr Jeszenszky (Hungary, EDG), Mr Columberg (Switzerland, EPP).

#### 4.2.1.2 Military voting

Where servicemen cannot return home on polling day, they should preferably be registered at polling stations near their barracks. Details of the servicemen concerned are sent by the local command to the municipal authorities who then enter the names in the electoral list. The one exception to this rule is when the barracks are too far from the nearest polling station. Within the military units, special commissions should be set up to supervise the pre-election period, in order to prevent the risk of superior officers' imposing or ordering certain political choices.

#### 4.2.1.3 Other voting methods

Several countries are already using, or are preparing to introduce mechanical and electronic voting methods. The advantage of these methods becomes apparent when a number of elections are taking place at the same time - certain precautions are needed to minimise the risk of fraud, for example by enabling the voter to check his or her vote immediately after casting it. Clearly, with this kind of voting, it is important to ensure that ballot papers are designed in such a way as to avoid confusion. In order to facilitate verification and a recount of votes in the event of an appeal, it may also be provided that a machine could print votes onto ballot papers; these would be placed in a sealed container where they cannot be viewed. There should also be some kind of device for mixing the ballot papers so that if it proves necessary to open the container for checking, papers cannot be linked to particular voters – for example, those turning out early or late in the day.

#### 4.2.1.4 Counting

The votes should preferably be counted at the polling stations themselves, rather than in special centres. The polling station staff are perfectly capable of performing this task, and this arrangement obviates the need to transport the ballot boxes and accompanying documents, thus reducing the risk of substitution.

The vote counting should be conducted in a transparent manner. Ideally, it should be open to the public, as is the case in some western countries, but most legislators in Eastern Europe and the CIS only admit observers, representatives of the candidates and the media, and grants the first two categories the option of entering comments in the minutes. There must be enough copies of the minutes to distribute to ensure that all the aforementioned persons receive one; one copy must be immediately posted on the notice-board, another kept at the polling station and a third sent to the higher commission.

The relevant regulations should stipulate certain practical precautions as regards equipment. For example, the minutes should be completed in ballpoint pen rather than pencil, as text written in pencil can be erased.

In practice, it appears that the time needed to count the votes depends on the efficiency of the chairperson of the polling station. These times can vary markedly, which is why a simple tried and tested procedure should be set out in the legislation or permanent regulations which appear in the training manual for polling station officials.

It is best to avoid treating too many ballot papers as invalid or spoiled. In case of doubt, an attempt should be made to ascertain the voter's intention.

#### 4.2.1.5 Transferring the results

There are two kinds of results: provisional results and final results (before all opportunities for appeal have been exhausted). The media, and indeed the entire nation, are always impatient to hear the initial provisional results. The speed with which these results are relayed will depend on the country's communications system. The polling station's results can be conveyed to the electoral district (for instance) by the chairperson of the polling station, accompanied by two other members of the polling station representing opposing parties, in some cases under the supervision of the security forces, who will carry the minutes, ballot box, etc.

However much care has been taken at the voting and vote-counting stages, transmitting the results is a vital operation whose importance is often overlooked. Transmission from the electoral district to the regional authorities and the Central Electoral Commission can be done by fax, if the country is sufficiently developed. In that case, the minutes will be scanned and the results can be displayed as and when they come in. Television can be used to broadcast these results but once again, too much transparency can be a dangerous thing if the public is not ready for this kind of piecemeal reporting. The fact is that the initial results usually come in from the towns and cities, which do not normally vote in the same way as rural areas. It is important therefore to make it clear to the public that the final result may be quite different from, or even completely opposite to, the provisional one, without there having been any question of foul play.

### 5. Secret suffrage

Secrecy of the ballot is one aspect of voter freedom, its purpose being to shield voters from pressures they might face if others learned how they had voted. Secrecy must apply to the entire procedure – and particularly the casting and counting of votes. Voters are entitled to it, but must also respect it themselves, and non-compliance must be punished by disqualifying any ballot paper whose content has been disclosed<sup>28</sup>.

Family voting, whereby one member of a given family can supervise the votes cast by the other members, infringes the secrecy of the ballot; it is one of the most common violations of the electoral law in some former USSR states. It can be explained by the fact that the USSR used to allow electors to vote for members of their family who were ill or absent at the time of the elections.

Moreover, since abstention may indicate a political choice, lists of persons voting should not be published.

### 6. Direct suffrage

Direct election of the lower house by the people is one aspect of Europe's shared constitutional heritage. The same procedure should also apply to other legislative bodies, in accordance with Article 3 of the Additional Protocol to the European Convention on Human

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<sup>28</sup> CDL (2000) 2, p. 9.

Rights, like the Parliaments of Federate States<sup>29</sup> and the European Parliament<sup>30</sup>. Nor can local self-government, which is a vital component of democracy, be conceived of without local elected bodies. On the other hand, even though the upper chamber, or indeed the President of the Republic, is often directly elected, this is a matter for the Constitution of the individual state.

## 7. Frequency of elections

Both the International Covenant on Civil and Political Rights<sup>31</sup> and the Additional Protocol to the European Convention on Human Rights<sup>32</sup> provide that elections must be held periodically. General elections are usually held at four- or five-yearly intervals, while longer periods are possible for presidential elections, although the maximum should be seven years.

## II. Conditions for implementing the principles

The underlying principles of European electoral systems can only be guaranteed if certain *general conditions* are fulfilled.

- The first, general, condition is *respect for fundamental rights*, and particularly freedom of expression, assembly and association, without which there can be no true democracy;
- Second, electoral law must enjoy a certain stability, protecting it against party political manipulation;
- Last and above all, a number of procedural guarantees must be provided, especially as regards the organisation of polling.

Furthermore, elections are held not in a vacuum but within the context of a specific electoral system and a given party system. This second section will conclude with a number of comments on this aspect, particularly on the relationship between electoral and party systems.

### 1. Respect for fundamental rights

Respect for *human rights*, particularly the freedom of expression and of the press and the freedom of assembly and association for political purposes, notably during electoral campaigns, is vital for the holding of democratic elections and therefore for the very existence of democracy. Restrictions on these fundamental rights must comply with the European Convention on Human Rights and, more generally, with the requirement that they have a basis in law, are in the general interest and respect the principle of proportionality.

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<sup>29</sup> See ECHR No. 9267/81, judgment *Mathieu-Mohin and Clerfayt vs. Belgium*, 2 March 1997, Series A No. 113, p. 23; Eur. Comm. HR No. 27311/95, *Timke vs. Germany*, DR 82, p. 15; No. 7008/75, *12.7.76, X vs. Austria*, DR 6, p. 120.

<sup>30</sup> See ECHR No. 24833/94, judgment *Matthews vs. the United Kingdom*, 18 February 1999, *Collected Judgments and Decisions 1999-I*, paras. 36 ff.

<sup>31</sup> Art. 25 b.

<sup>32</sup> Art. 3.

The fact is that many countries have legal limitations on *free speech*, which, if restrictively interpreted, may just be acceptable – but may generate abuses in countries with no liberal, democratic tradition. In theory, they are intended to prevent “abuses” of free speech by ensuring, for example, that candidates and public authorities are not vilified, and even protecting the constitutional system. In practice, however, they may lead to the censoring of any statements which are critical of government or call for constitutional change, although this is the very essence of democratic debate. For example, several international organisations agree that European standards are violated by the electoral law of Belarus, which prohibits “insulting or defamatory references to officials of the Republic of Belarus or other candidates” in campaign documents, makes it an offence to circulate libellous information on candidates, and makes candidates themselves liable for certain offences committed by their supporters<sup>33</sup>. Similarly, in Azerbaijan, the insistence in the law applicable in 2000 that materials intended for use in election campaigns must be submitted to electoral commissions, indicating the organisation which ordered and produced them, the number of copies and the date of publication, constituted an unacceptable form of censorship, particularly since electoral commissions were required to take action against illegal or inaccurate publications. Furthermore, the rules prohibiting improper use of the media during electoral campaigns were rather vague<sup>34</sup>.

## **2. Stability of the electoral law**

Stability of the law is crucial to credibility of the electoral process, which is itself vital to consolidating democracy<sup>35</sup>. Rules which change frequently – and especially rules which are complicated – may confuse voters and leave them nonplussed. Above all, voters may conclude, rightly or wrongly, that electoral law is simply a tool in the hands of the powerful, and that their own votes have little weight in deciding the results of elections.

In practice, however, it is not so much stability of the basic principles which needs protecting (they are not likely to be seriously challenged) as stability of some of the more specific rules of electoral law, especially those covering the electoral system *per se*, the composition of electoral commissions and the drawing of constituency boundaries. These three elements are often, rightly or wrongly, regarded as decisive factors in the election results, and care must be taken to avoid not only manipulation to the advantage of the party in power, but even the mere semblance of manipulation.

It is not so much changing voting systems which is a bad thing – they can always be changed for the better – as changing them frequently or just before (within one year of) elections. Even when no manipulation is intended, changes will seem to be dictated by immediate party political interests.

One way of ensuring the stability of electoral law is to define in the Constitution the elements that are most exposed to manipulation (the electoral system itself, the membership of electoral commissions, constituencies or rules on drawing constituency boundaries). Another, more flexible, solution would be to stipulate in the Constitution that, if the electoral

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<sup>33</sup> Articles 47, 49 and 75 of the Electoral Code; see also CDL (99) 66, pp. 7-8.

<sup>34</sup> For further details see CDL-INF (2000) 17, pp. 2 and 3, and Arts. 56 and 57 of the law on elections to the Milli Majlis.

<sup>35</sup> On the importance of credibility of the electoral process, see for example CDL (99) 67, p. 11; on the need for stability of the law, see CDL (99) 41, p. 1.

law is amended, the old system will apply to the next election, and the new one will take effect after that.

### **3. Procedural safeguards**

#### **3.1 Organisation of elections by an impartial body**

Only transparency, impartiality and independence from politically motivated manipulation will ensure proper administration of the election process, from the pre-election period to the end of the processing of results.

In stable democracies, where the civil service applies electoral law without being subjected to political pressures, it is both normal and acceptable for elections to be organised by administrative authorities, and supervised by the Ministry of the Interior.

However, in new democracies with little experience of organising pluralist elections, there is too great a risk of government's pushing the administrative authorities to do what it wants<sup>36</sup>. This applies both to central and local government - even when the latter is controlled by the national opposition.

This is why *independent, impartial electoral commissions* must be set up on all levels to ensure that elections are properly conducted, or at least remove serious suspicions of irregularity.

According to the reports of the Bureau of the Assembly on election observations, the following shortcomings concerning the electoral commissions have been noted in a number of member States: lack of transparency in the activity of the Central Electoral Commission; variations in the interpretation of counting procedure; politically polarised election administration; controversies in appointing members of the Central Electoral Commission; commission members nominated by a state institution; the dominant position of the ruling party in the election administration.

*Any central electoral commission* must be *permanent*, as an administrative institution responsible for liaising with local authorities and the other lower-level commissions, e.g. as regards compiling and updating the electoral lists.

The composition of a central electoral commission can give rise to debate and become the key political issue in the drafting of an electoral law. Compliance with the following guidelines should facilitate maximum impartiality and competence on the part of the commission.

As a general rule, the commission should consist of:

- a judge or law officer: where a judicial body is responsible for administering the elections, its independence must be ensured through transparent proceedings. Judicial appointees should not come under the authority of those standing for office;

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<sup>36</sup> CDL (99) 51, p. 8.

- representatives of parties already represented in parliament or which have won more than a certain percentage of the vote – in this case they should be prohibited from campaigning;
- a representative of the Ministry of the Interior.

However, for reasons connected with the history of the country concerned, it may not always be appropriate to have a representative of the Ministry of the Interior in the commission. During its election observation missions the Assembly has expressed concern on several occasions about transfers of responsibilities from a fully-fledged multi-party electoral commission to an institution subordinate to the executive<sup>37</sup>. Nevertheless, co-operation between the central electoral commission and the Ministry of the Interior is possible if only for practical reasons, e.g. transporting and storing ballot papers and other equipment.

Broadly speaking, bodies that appoint members to electoral commissions should not be free to recall them, it casts doubt on their independence<sup>38</sup>. Discretionary recall is unacceptable, but recall for disciplinary reasons is permissible - provided that the grounds for this are clearly and restrictively specified in law (vague references to “acts discrediting the commission”, for example, are not sufficient).

The composition of the Central Electoral commission is certainly important, but no more so than its mode of *operation*. The commission’s rules of procedure must be clear, because commission chairpersons have a tendency to let members ramble on, which the latter are quick to exploit. The rules of procedure should provide for an agenda and a limited amount of speaking time for each member – e.g. a quarter of an hour; otherwise endless discussions are liable to obscure the main business of the day.

There are many ways of making decisions. It would make sense for decisions to be taken by a qualified (e.g. 2/3) majority, so as to encourage debate between the majority and at least one minority party.

The meetings of the central electoral commission should be open to everyone, including the media (this is another reason why speaking time should be limited). Any computer rooms, telephone links, faxes, scanners, etc. should be open to inspection.

Other electoral commissions operating at regional or constituency level should have a similar composition to that of the central electoral commission. Constituency commissions play an important role in single-seat majority voting systems because they determine the winner in general elections. Regional commissions also play a major role in relaying the results to the central electoral commission.

Appropriate staff with specialised skills<sup>39</sup> are required to organise elections. Members of central electoral commissions should be legal experts, political scientists, mathematicians or other people with a good understanding of electoral issues.

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<sup>37</sup> See for example *Doc. 8254: observation of parliamentary elections in Slovakia (25-26 September 1998)*, Rapporteur: Mr Adamczyk (Poland, EPP/CD).

<sup>38</sup> On this issue (in Armenia), see *CDL (2000) 103 rev.*, pp. 3-4; the need to abolish the rules permitting dismissal was subsequently emphasised.

<sup>39</sup> See *CDL (98) 10*, p. 5.

There have been several cases of commissions lacking qualified and trained election staff, e.g. in Azerbaijan, during the November 2000 parliamentary elections. The rapporteur noted that "... the staff in the polling stations were neither motivated nor trained to implement the election procedures properly. The stakes were such that, on the day, people forgot the rules in order to get the 'correct' results."<sup>40</sup>

Members of electoral commissions have to receive standardised training at all levels of the election administration. Such training should also be made available to the members of commissions appointed by political parties. The electoral law should contain an article requiring the authorities (at every level) to meet the demands and needs of the electoral commission. Various ministries and other public administrative bodies, mayors and town hall staff may be directed to support the election administration by carrying out the administrative and logistical operations of preparing for and conducting the elections. They may have responsibility for preparing and distributing the electoral registers, ballot papers, ballot boxes, official stamps and other required material, as well as determining the arrangements for storage, distribution and security.

### 3.2 Organisation and operation of polling stations

The quality of the voting and vote-counting systems and proper compliance with the electoral procedures depend on the mode of organisation and operation of the polling stations. The reports of the Bureau of the Assembly on the observation of elections in different countries have revealed a series of logistical irregularities. In October 1999, for example, they noted significant differences between polling stations across different regions of Georgia; according to the report on this country<sup>41</sup>, "a great difference was observed between the polling stations in cities and in villages. Some out-of-city polling stations did not have heating or electricity and were situated in cramped premises unable to accommodate all local observers and voters at the same time."

Assembly observation missions have also noticed several cases of technical irregularities such as wrongly printed or stamped ballot boxes, overly complex ballot papers, unsealed ballot boxes, inadequate ballot papers or boxes, misuse of ballot boxes, insufficient means of identification of voters and absence of local observers.

All these irregularities and shortcomings, in addition to political party electioneering inside the polling station and police harassment, can seriously vitiate the voting process, or indeed undermine its integrity and validity.

### 3.3 Funding

Regulating the funding of political parties and electoral campaigns is a further important factor in the regularity of the electoral process.

First of all, funding must be *transparent*; such transparency is essential whatever the level of political and economic development of the country concerned.

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<sup>40</sup> See *Doc. 8918*; *Ad Hoc Committee to observe the parliamentary elections in Azerbaijan (5 November 2000)*; *Rapporteur: Mr Martínez Casán, (Spain, EPP/CD)*.

<sup>41</sup> See *Doc. 8605*, *Ad Hoc Committee to observe the parliamentary elections in Georgia (31 October 1999)*, *Rapporteur: Mr Davis, (United Kingdom, SOC)*.

Transparency operates at two levels. The first concerns campaign funds, the details of which must be set out in a special set of carefully maintained accounts. In the event of significant deviations from the norm or if the statutory expenditure ceilings are exceeded, the election must be annulled. The second level involves monitoring the financial status of elected representatives before and after their term in office. A commission in charge of financial transparency takes formal note of the elected representatives' statements as to their finances. The latter are confidential, but the records can, if necessary, be forwarded to the public prosecutor's office.

Obviously, any expenses incurred by local authorities in connection with the running of the election, the payment of election commission members, the printing of ballot papers, etc, will be borne by the state.

It should be remembered that in the field of *public funding* of parties or campaigns the principle of equality of chances applies ("strict" or "proportional" equality)<sup>42</sup>. All parties represented in parliament must in all cases qualify for public funding. However, in order to ensure equality of chances for all the different political forces, public funding might also be extended to political formations that represent a large section of the electorate and put up candidates for election. The funding of political parties from public funds must be accompanied by supervision of the parties' accounts by specific public bodies (e.g. the Auditor General's Department). The states should encourage a policy of financial openness on the part of political parties receiving public funding<sup>43</sup>.

### 3.4 Security

Every electoral laws must provide for intervention by the security forces in the event of trouble. In such an event, the chairperson of the polling station (or his or her representative) must have sole authority to call in the police. It is important to avoid extending this right to all members of the polling station commission, as what is needed in such circumstances is an on-the-spot decision that is not open to discussion.

In some states, having a police presence at polling stations is a national tradition, which, according to observers, does not necessarily trigger unrest or have an intimidating effect on voters. One should note that a police presence at polling stations is still provided for in the electoral laws of certain western states, even though this practice has changed over time. The presidential elections in Ukraine (31 October and 14 November 1999) provided an example of the possible impact of such "traditions" on the polling: "militia personnel were present inside most polling stations visited – a possible factor of intimidation, particularly when too close to the voting booths and ballot boxes"<sup>44</sup>.

### 3.5 Observation of elections

Observation of elections plays an important role in the new democracies as it provides evidence of whether the electoral process has been regular or not.

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<sup>42</sup> See section I.3.3 above.

<sup>43</sup> For further details on funding of political parties, see CDL-INF (2001) 8.

<sup>44</sup> See Doc. 8603, Ad Hoc Committee to observe the presidential elections in Ukraine (31 October and 14 November 1999); Co-Rapporteurs: Mrs Jones (United Kingdom, SOC) and Mr Gross (Switzerland, SOC).

There are three different types of observer: partisan national observers, non-partisan national observers and international (non-partisan) observers. In practice the distinction between the first two categories is not always obvious. This is why it is best to make the observation procedure as broad as possible at both the national and the international level.

Observation is not confined to the actual polling day but includes ascertaining whether any irregularities have occurred in advance of the elections (e.g. by improper maintenance of electoral lists, restrictions on freedom of expression, and violations of rules on access to the media or on public funding of electoral campaigns), during the elections (e.g. through pressure exerted on electors, multiple voting, violation of voting secrecy etc.) or after polling (especially during the vote counting and announcement of the results).

International observers play a primordial role in the new democracies, which have no established tradition of impartial verification of the lawfulness of elections.

Generally, international as well as national observers must be in a position to interview anyone present, take notes and report to their organisation, but they should refrain from making comments.

The law must be very clear as to what sites observers are entitled to visit. For example, specific mention should be made of vote counting, as any text which refers simply to "sites where the election (or voting) takes place" is liable to be construed by certain polling stations in an unduly narrow manner<sup>45</sup>.

### 3.6 Effective appeal systems

If the electoral law provisions are to be more than just words on a page, failure to comply with the electoral law must be open to challenge before an appeal body. This applies in particular to the election results: individual citizens may challenge them on the grounds of irregularities in the voting procedures. It also applies to decisions taken before the elections, especially in connection with electoral registers, the electoral campaign and access to the media or to party funding.

There are two possible solutions:

- appeals may be heard by the ordinary courts, a special court or the constitutional court;
- appeals may be heard by an electoral commission. There is much to be said for this latter system in that the commissions are highly specialised whereas the courts tend to be less *au fait* with electoral issues. As a precautionary measure, however, it is desirable that there should be some form of judicial supervision in place, making the higher commission the first appeal level and the competent court the second.

In both instances the procedure should be straightforward and fast. It is preferable for the procedure and the time limits to be enshrined in law. Time limits should be long enough to allow for appeals to be lodged and for the commission to reach a decision. Three days is normally sufficient.

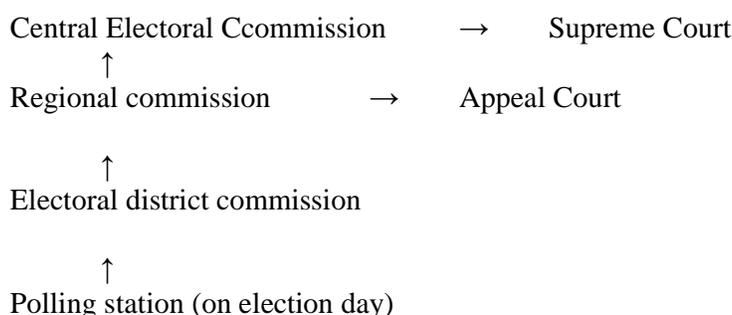
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<sup>45</sup> *Re. election observation, see Handbook for Observers of Elections, Council of Europe, 1996.*

The procedure must also be simple, and providing voters with special appeal forms helps to make it so<sup>46</sup>. The training sessions on application of Albania's electoral law by the courts (April 2001) stressed the need to eliminate formalism, and so avoid decisions of inadmissibility, especially in politically sensitive cases.

It is also vital that the appeal procedure, and especially the powers and responsibilities of the various bodies involved in it, should be clearly regulated by law, so as to avoid any positive or negative conflicts of jurisdiction. Neither the appellants nor the authorities should be able to choose the appeal body. The risk that successive bodies will refuse to give a decision is seriously increased where it is theoretically possible to appeal to either the courts or an electoral commission, or where the powers of different courts – e.g. the ordinary courts and the constitutional court – are not clearly differentiated. This problem has arisen in several CIS countries<sup>47</sup>.

*Example :*



Disputes relating to the electoral lists, which are the responsibility, for example, of the local administration operating under the supervision of or in co-operation with the electoral commissions, can be dealt with by courts of first instance.

Standing in such appeals must be granted as widely as possible. It must be open to every elector in the constituency and to every candidate standing for election there to lodge an appeal.

The *powers* of appeals bodies are important too. They should have authority to annul elections, if irregularities may have influenced the outcome, i.e. affected the distribution of seats. This is the general principle, but it should be open to adjustment, i.e. annulment should not necessarily affect the whole country or constituency – indeed, it should be possible to annul the results of just one polling station. This makes it possible to avoid the two extremes – annulling an entire election, although irregularities affect a small area only, and refusing to annul, because the area affected is too small. In zones where the results have been annulled, the elections must be repeated<sup>48</sup>.

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<sup>46</sup> CDL (98) 45, p. 11.

<sup>47</sup> Armenia: CDL (2000) 103 rev., pp. 12, 13, 15 and 16; Azerbaijan: CDL-INF (2000) 17, pp.6 and 7; and Belarus.

<sup>48</sup> There was a problem here with the November 2000 elections in Azerbaijan. Under Section 3.1 of the Law on elections to the Milli Majlis, 100 seats are allocated on a single-round, single-candidate, majority vote, and 25 under a proportional system. Both the majority and the proportional segments were annulled in eleven constituencies, but only the majority vote was repeated, and the votes cast there under the proportional system

Where higher level commissions are appeal bodies, it appears advisable that they be able to rectify or annul *ex officio* the decisions of lower electoral commissions.

It is imperative that appeal proceedings be as brief as possible. Two pitfalls must be avoided: first, that appeal proceedings retard the electoral process, and second, that, due to their lack of suspensive effect, decisions on appeals – other than those concerning the voting in the elections and the results – are taken after the elections have been held. Finally, decisions on the results of elections must also not take too long, especially where the political climate is tense. This means both that the time limits for appeals must be very short and that the appeal body must make its ruling as quickly as possible. A time limit of three to five days (both for lodging appeals and making rulings) seems reasonable. It is, however, permissible to grant a little more time to Supreme and Constitutional Courts for their rulings.

#### 4. The electoral system

##### 4.1 Electoral system and party system

Where the underlying principles of European electoral systems are respected there is an enormous choice of electoral system (in the narrow sense). Before coming down in favour of one particular system, however, a number of factors must be taken into account.

First, a system which has been working well, perhaps for decades, in one country is not necessarily exportable to another, and account must always be taken of local circumstances in choosing the electoral system (e.g. the need to ensure that national minorities or other groups are represented in the elected body). Obviously, the current interests of the ruling party must play no part in the choice, and priority must always be given to the stability of the electoral system, which should preferably be adopted with a view to its remaining in force for several decades to come.

Furthermore, careful thought should be given before introducing in a new democracy a system which has seen little use elsewhere, such as the alternative vote system proposed but finally rejected for the Presidency of Bosnia-Herzegovina<sup>49</sup>.

*The influence of the electoral system on the party system* must be analysed in two stages: the influence of the electoral system on the results, and the influence of the results on the party system<sup>50</sup>.

How does the electoral system influence the results? First of all it has a *direct influence on results* because of the method of converting votes into seats. Some systems reduce the fragmentation of the vote more radically than others, i.e. they allocate seats in a less proportional manner and favour the large parties to the detriment of the smaller ones. Although proportional systems clearly have less of a tendency to reduce fragmentation than majority systems, not all of them provide perfectly proportional results. Proportionality can be diminished in three different ways:

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*were simply ignored when the seats concerned were allocated. This was because, under Sections 73.8.2 and 76.1 of the Law on elections to the Milli Majlis, the proportional segment of an election can be repeated only in its entirety, and then only if the results have been annulled in 25% of polling stations (or constituencies?).*

<sup>49</sup> See CDL (99) 40, p. 7.

<sup>50</sup> For further information see CDL-INF (2001) 16, pp. 2 ff.

- by introducing a quorum, which eliminates the smaller parties: a threshold of 3 to 5% of the vote in order to win seats seems appropriate;
- by using a seat distribution method that tends to favour the large parties;
- by establishing a small number of seats for each constituency.

On the other hand, the majority election system eliminates the smaller parties, except in two fairly exceptional cases: where strong independent candidates emerge unlinked to any party, and where local (possibly regionalist and small) parties are very strong in a specific part of the country.

As shown by this last example, the effect of an electoral system also depends heavily on the spread of votes cast.

The electoral system also influences the results *indirectly* in that it has some effect on voters' attitudes. The general trend is that the more the system counteracts fragmentation, the more it prompts the elector to accentuate its effects through "tactical voting", shunning the parties with little chance of winning seats.

Broadly speaking, the more the system counteracts fragmentation, the more it tends to over-representation of the large parties and under-representation of the smaller parties, which enables one single party to win an absolute majority of seats.

*The influence of the results (and therefore of the electoral system) on the party system* is much more difficult to assess, and no general rules can be laid down in this field. However, what matters is not the number of parties registered but the number of parties capable of entering parliament. The number of parties in parliament should not be too great in order to minimise the risk of unstable government.

To achieve this, legislators can act at three different levels:

- Restricting the number of parties registered,
- Restricting the number of parties that are allowed to field candidates in elections,
- Restricting the number of parties that can win seats by introducing thresholds in proportional representation ballots, majority-voting ballots or in systems which rely on both.

Preventing an excessive number of parties through the electoral system would seem to be the most effective and least objectionable method as far as political rights are concerned. The general trend is to avoid restricting the number of parties by tinkering with the terms and conditions governing *registration*, because refusal to register a party is often a convenient way for the authorities to get rid of a competitor who is irksome rather than insignificant<sup>51</sup>.

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<sup>51</sup> *Re. requirements for presentation of candidatures, see end of section 1.2 above.*

#### 4.2 Freedom of elector's choice

There are no common European standards requiring the elector to be able, during multi-seat elections, to choose between several candidates, apart from his/her choice of different party lists.

However, in the case of multi-seat majority elections (which are no longer used in Europe for electing lower chambers), voters should be able to engage in cross-voting ("*panachage*") so as to enable several parties to be represented in a given constituency and thus prevent the majority from obtaining any "overwhelming" victory.

In proportional representation systems it should be remembered that party apparatuses have greater weight in blocked party-list systems than where voters can cast preferential votes, cross candidates off lists or use cross-voting. One of the reasons why the international community intervened to secure preferential voting in Bosnia-Herzegovina and Kosovo was to ensure that electors were not forced to follow the choices made by party leaders.

The right to cast preferential votes can, in particular, promote the representation of minorities where they are in the majority in a given constituency; otherwise, it is not a suitable means of ensuring representation of minorities, because where it is used the majority candidates on each list are likely to obtain most votes. Similarly, preferential or cross-voting can promote representation of women, but on condition that voters vote for women, otherwise the end result will be opposite to that intended, as it may lead to the exclusion of women.

#### **Conclusion**

Compliance with the five underlying principles of the European electoral heritage (universal, equal, free, secret and direct suffrage) is essential for democracy. It enables democracy to be expressed in different ways but within certain limits. These limits stem primarily from the interpretation of the said principles; the present text lays out the minimum rules to be followed in order to ensure compliance. Second, it is insufficient for the electoral law (in the narrow sense) to comprise rules that are in keeping with the European electoral principles: the latter must be placed in their context, and the credibility of the electoral process must be guaranteed. First, respect for fundamental rights must be guaranteed; and second, the stability of the rules must be such as to exclude any suspicion of manipulation. Lastly, the procedural framework must allow the rules laid down to be implemented effectively.