



Strasbourg, 15 March 2013

CDL-EL-PV(2013)002*
Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

44th MEETING
OF THE COUNCIL FOR DEMOCRATIC ELECTIONS

Venice, 7 March 2013 at 10 a.m.

MEETING REPORT

**This document has been classified restricted on the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

1. Adoption of the agenda

The Council adopted its agenda as it appears in document CDL-EL-OJ(2012)002ann.

2. Communication by the Secretariat

The Secretariat informed the Council on:

- the meeting on electoral systems in Tunisia, held in Strasbourg on 18 December 2012; this meeting enabled a large delegation from the General Legislative Committee of the National Constituent Assembly of Tunisia, including its Chair Ms Badreddine, as well as the second vice Chair of the Assembly, Mr Abid, to meet with a Venice Commission delegation to discuss electoral systems, and in particular those that might be considered for the upcoming legislative elections in Tunisia. The Venice Commission rapporteurs were Mr Colliard ("Some issues to take into account when choosing an electoral system"); Mr Grotz (expert, Germany) ("Electoral systems and their political consequences: elements of interest for Tunisia"); Mr Gumi ("The choice of an electoral system and the issue of stability of electoral law in the light of the Albanian experience"); Mr Vulchanov (expert, Bulgaria) ("Applied aspects of simple systems for proportional representation"). Mr Colliard stated that the work of the National Constituent Assembly was not progressing quickly, including on the issue of the electoral system.
- long-term assistance to the Central Electoral Commission and to the Electoral College – the body responsible for electoral disputes – of Albania, with a view to the Parliamentary elections of 23 June 2013; an expert has been present in Albania since 1 February 2013; the assistance will continue until the beginning of July. The expertise focuses on all aspects of the electoral process, starting with the rules of procedure of the Central Electoral Commission. A specific activity should be organised by the Electoral College. The Commission's representative is co-operating with other international organisations, both governmental and non-governmental.
- assistance to the mission observing the Presidential elections in Armenia (19 February 2013); Mr Kask and a member of the Secretariat travelled to Armenia on 16-19 February as part of the agreement between the Parliamentary Assembly (PACE) and the Venice Commission; the Commission provided legal assistance to the PACE delegation. Mr Kask indicated that the vote was not very competitive, as the party of former President Ter-Petrosian did not take part. There were eight candidates, but most of them gained very few votes. The campaign was fairly balanced, but there had been abuse of public funds. One of the main problems was the electoral lists, especially due to people residing abroad, which had been pointed out by the Venice Commission. The issue of voting rights for prisoners was also raised. A certain number of irregularities were found during the ballot, in particular double voting in the absence of inking of fingers. In general, the conclusions of the observation missions were quite positive. Ms Schmidt stated that there was a link between a very high participation and the vote for the incumbent candidate; the candidate who came in second place appealed to the Constitutional court. It should be noted that the appeals – few in number – were declared inadmissible due to lack of standing; the law should be revised in this respect.
- the on-going transfer of the VOTA database to the Electoral Tribunal of the Federal Judiciary of Mexico. During 2012 the Venice Commission worked with the Electoral Tribunal of the Federal Judiciary of Mexico (*Tribunal Electoral del Poder Judicial de*

la Federación - TEPJF) with the aim of up-dating and modernising the VOTA database. In particular, a Spanish thesaurus has been drawn up. The Venice Commission is currently working on up-dating the legislation. Following review by the Venice Commission, the information will be sent to the Electoral Tribunal who will be responsible for indexing in English and Spanish, whilst the Commission will continue indexing in French. Once the revised database is made public, it will be managed by the Electoral Tribunal of Mexico. Mr Carlos Soriano Cienfuegos on behalf of the TEPJF underlined the importance of co-operation in this field.

3. Mexico

The Secretariat informed the Council of the progress of work on the electoral law of Mexico, stating that, in February 2012, the Federal Electoral Institute of Mexico had requested an opinion on the electoral law of Mexico from the Commission. A Commission delegation had travelled to Mexico in November 2012 to meet with the authorities and the civil society. The opinion will soon be finished, and it will be submitted to the Council and to the Commission in June 2013, in the presence of the Presidents of the Federal Electoral Institute and the Electoral Tribunal of the Federal Judiciary.

Mr Soriano Cienfuegos informed the Council that the electoral law may shortly be revised. Mr Colliard stated that he had been impressed by the professionalism of the latest elections in Mexico.

4. Moldova

The Central Electoral Commission and the Parliament of Moldova had requested an opinion on two draft laws on the funding of political parties and of electoral campaigns ([CDL-REF\(2012\)037](#) and [CDL-REF\(2012\)038](#); see also document [CDL-REF\(2012\)007](#)).

The draft joint opinion by the Venice Commission and the OSCE/ODIHR on the draft legislation of the Republic of Moldova pertaining to financing Political Parties and Electoral Campaigns ([CDL\(2013\)002](#)), drawn up on the basis of comments by Mr Hamilton and Mr Vollan (Venice Commission expert), Ms Cigane (OSCE/ODIHR expert) and Messrs Katz and Smilov (experts, OSCE/ODIHR Core group of experts on political parties), was submitted to the Council with a view to adoption.

In the framework of the preparation of the opinion, a joint delegation of the Venice Commission and the OSCE/ODIHR had travelled to Chisinau on 23-24 January 2013 and met with the multidisciplinary working group responsible for the revision (including the Minister of Justice), the Permanent Legal Committee of the Parliament and representatives of political parties and NGOs.

Mr Hamilton presented the draft opinion. He stated that the opinion examined two competing texts, one from the Central Electoral Commission, subsequently approved by the Government (the draft amendments), and the other from the Democratic Party (draft law).

Amongst the main recommendations the following should be noted: unauthorised funds should be sent back to the State (an amendment is proposed in this regard); reconsider the imposition of an annual ceiling for all permissible donations and member fees (to be reduced); remove the blanket ban on third-party donations, in line with European case-law; consider establishing an independent Directorate of Financial Control in the Central Election Commission; enhance the system of sanctions by combining the comprehensive system outlined in the draft Amendments with the autonomous sanctions to be imposed by the Central Election Commission in the draft Law.

The Council adopted the draft joint opinion by the Venice Commission and the OSCE/ODIHR on the draft legislation of the Republic of Moldova pertaining to financing Political Parties and Electoral Campaigns ([CDL-AD\(2013\)002](#)).

5. Any future activities

Following a request from the Monitoring Committee of the Parliamentary Assembly, the Venice Commission and the OSCE/ODIHR will prepare, for the next session, a joint opinion on the new Electoral Code of “the former Yugoslav Republic of Macedonia”. As agreed with the Assembly, the Council and the Commission will discuss this opinion at the June session, with a view to its adoption, so as not to interfere in the process of local elections which will take place in the country on 24 March 2013.

The Commission will take part, as a legal adviser, in the Parliamentary Assembly mission observing the Presidential elections in Montenegro (7 April 2013). In this context, Mr Paczolay, accompanied by a member of the Secretariat, will travel to Montenegro from 4-8 April 2013.

The Secretariat informed the Council on:

- the preparation of the opinion on the law on referendums of Ukraine; work on this opinion will start once the translation of the law has been received. The Secretary of the Venice Commission pointed out that the Commission has always indicated that constitutional revision should not be adopted directly by referendum, but rather following adoption by Parliament by a two-thirds majority. During a recent visit of the President of the Commission to Ukraine, the Speaker of the Parliament indicated that the drafting of a unified electoral code was imminent. It should also be underlined that seven seats held by the majority are disputed, which confirms the Venice Commission’s reluctance for the reintroduction of a mixed system.
- the preparation of the Conference on Administrative Resources, organised in the framework of the Eastern Partnership Programme (Tbilisi, April 2013); on 18-19 April the Venice Commission will organise, in co-operation with the Central Electoral Commission of Georgia, a seminar in the framework of the joint programme with the European Union “Eastern Partnership”. This seminar will focus on the issue of the use of administrative resources during electoral campaigns. Representatives from the Central Electoral Commissions of Armenia, Azerbaijan, Georgia, Moldova and Ukraine are expected to take part in this seminar and speak on the theme (it is possible that Belarus may also participate). In addition, Messrs Ghevontian (expert, France), Gonzalez Oropeza (to be confirmed), Kalchenko (expert, Ukraine) and Kask will speak on behalf of the Venice Commission.
- the preparation of the 10th Conference of European Electoral Management Bodies; the next Conference of European Electoral Management Bodies will take place in Chisinau probably at the end of June 2013. The Secretariat is in contact with the initiative group of the Conference in order to fix the date of this event in the near future. The Conference could focus in particular on international standards in electoral matters.

In view of the forthcoming Presidential elections, the Commission should organise an event in Azerbaijan which could deal with electoral disputes, in the light of the case law of the European Court of Human Rights.

The Commission should co-operate with the Central Electoral Commission of Georgia with a view to the forthcoming Presidential elections. The nature of this co-operation will depend on the request made by this Commission. Ms Khidashvili informed the Council that the Georgian authorities should ask the Commission to provide assistance to the inter-Party working group working on the revision of the electoral code; this revision should only marginally concern the Presidential elections (in particular regarding complaints and appeals).

6. Co-operation with OSCE/ODIHR

An exchange of views took place with the representatives of the OSCE/ODIHR on the possibilities of future co-operation.

A joint opinion will be prepared on the Electoral Code of “the former Yugoslav Republic of Macedonia” (see item 5 above).

Ms Schmidt stated that the OSCE/ODIHR may receive a request for opinion on the electoral legislation of the Czech Republic; should this be the case a joint opinion will be drafted.

The OSCE/ODIHR will in the near future observe elections in the following countries: Malta, “the former Yugoslav Republic of Macedonia” (in co-operation with the Congress of Local and Regional Authorities of the Council of Europe), Montenegro (in co-operation with the Parliamentary Assembly), Albania, Iceland, Mongolia, Bulgaria. The OSCE/ODIHR is ready to co-operate in general with the Council of Europe in this respect. Final reports are being prepared on Armenia and the Czech Republic.

7. Date of the next meeting

The next meeting of the Council will take place on Thursday 13 June 2013 at 10 a.m.

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS**COMMISSION DE VENISE / VENICE COMMISSION****Membres du Conseil des Elections démocratiques (CED) / Members of the Council for Democratic Elections (CDE)**

M. Jean-Claude COLLIARD (**Vice-Président/Vice-Chair**)

Mr Oliver KASK

Mr Ugo MIFSUD BONNICI (excusé/apologised)

Mr Peter PACZOLAY (excusé/apologised)

Membres suppléants du CED / Substitute Members of the CDE

Ms Maria del Carmen ALANIS FIGUEROA (excusée/apologised)

Ms Paloma BIGLINO CAMPOS (excusée/apologised)

Mr Paul CRAIG (excusé/apologised)

Mr Srdjan DARMANOVIC (excusé/apologised)

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

M. Gianni BUQUICCHIO (Président/President)

Mr James HAMILTON

Mexique/Mexico - Tribunal électoral du pouvoir judiciaire de la Fédération / Electoral Tribunal of the Federal Judiciary

Mr Carlos SORIANO CIENFUEGOS

Secrétariat / Secretariat

M. Thomas MARKERT

M. Pierre GARRONE

ASSEMBLEE PARLEMENTAIRE / PARLIAMENTARY ASSEMBLY**Membres / Members**

Mme Josette DURRIEU, Commission des questions politiques et de la démocratie / Committee on Political Affairs and Democracy

M. Andreas GROSS, Commission des questions juridiques et des droits de l'homme / Committee on Legal Affairs and Human Rights (**Président/Chair**) (excusé/apologised)

Ms Marietta de POURBAIX-LUNDIN, Commission de suivi / Monitoring Committee (excusée/apologised)

Membres suppléants / Substitute Members

Mr Jordi XUCLÀ, Commission de suivi / Monitoring Commission

Ms Tinatin KHIDASHELI, Commission des questions politiques et de la démocratie / Committee on Political Affairs and Democracy

Secrétariat / Secretariat

(excusé/apologised)

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

Membres / Members

Mr Lars O. MOLIN, Chambre des pouvoirs locaux (excusé/apologised)

Ms Gudrun MOSLER-TÖRNSTRÖM, Chambre des régions (excusé/apologised)

Membres suppléants / Substitute Members

Mr Nigel MERMAGEN, Chambre des pouvoirs locaux (excusé/apologised)

Ms Valentina ROSSI, Chambre des régions (excusé/apologised)

Secrétariat / Secretariat

(excusé/apologised)

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

M. François FRIEDERICH

OBSERVATEURS / OBSERVERS

OSCE

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Ms Marta ACHLER

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UNION EUROPEENNE / EUROPEAN UNION

(excusée/apologised)