



Strasbourg, 14 June 2021

CDL-EL-PV(2021)001*
Or. Engl./Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

71ST MEETING
OF THE COUNCIL FOR DEMOCRATIC
ELECTIONS
On-line meeting
18 March 2021 at 10 a.m. - 12.30 p.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 the present document CDL-EL-OJ(2021)001ann.

2. Georgia - Draft joint opinion of the Venice Commission and the OSCE/ODIHR on draft amendments to the Election Code, the Organic Law on the Political Associations of Citizens and the Rules of Procedure of Parliament

Mr Bisson explained that the opinion stressed the importance of Parliament as the appropriate forum for political debate: opposition parties must participate in such a debate, while the majority in parliament must provide the appropriate space for these parties to function properly and engage in genuine dialogue. The opinion also highlighted the disproportionate nature of the sanctions proposed in the amendments on party funding and MPs salaries; it explained that the changes would undermine the right of political parties to equal opportunities by denying them free airtime if they do not receive public funding: there existed other, more proportionate and appropriate ways to achieve the objective of the amendments. In conclusion, the opinion recommended reconsidering the amendments altogether.

The Council approved the joint opinion of the Venice Commission and the OSCE/ODIHR on the draft amendments to the Election Code, the Organic Law on the Political Associations of Citizens and the Rules of Procedure of Parliament (CDL-AD(2021)008).

3. Georgia - Draft joint opinion of the Venice Commission and the OSCE/ODIHR on draft Article 79¹ of the Electoral Code (revocation of party registration)

Mr Castellà Andreu recalled, with regard to the draft new Article 79¹ of the Electoral Code, that the restrictions on aliens to participate in domestic political life could apply to the establishment of political parties, but not to their membership. The opinion pointed to the disproportionate nature of the proposed sanction of deregistering a party list due to the foreign nationality of a person acting as its political leader, which would unduly restrain the right to be elected for candidates of the party's list targeted and limit the right of voters to choose. The opinion also highlighted concerns about the lack of clear and objective criteria of the notion of "political leader", which may lead to an overly subjective and ambiguous interpretation of this term and thus to legal uncertainty, as well as regarding the complaints and appeals procedure of Article 79¹. Moreover, draft Article 79¹ could be perceived as *stricto sensu ad hominem* legislation, a legislative technique previously criticised by the Venice Commission. In conclusion, the opinion recommended reconsidering the proposed amendment altogether.

The Council approved the joint opinion of the Venice Commission and OSCE/ODIHR on draft Article 79¹ of the Electoral Code (revocation of party registration) (CDL-AD(2021)009).

4. Ukraine - Draft joint opinion of the Venice Commission and the OSCE/ODIHR on the draft Law on Political Parties

Mr Pere Vilanova Trías stressed that this legislative initiative was welcome, as were the opinion request by the Chair of the Parliamentary Committee on Legal Policy and the constructive and open dialogue with the authorities and other stakeholders during the drafting process and video meetings. While care needed to be taken to ensure consistency with other legal acts of Ukraine, the scope of the present opinion was limited to the draft Law on Political Parties. A matter of concern was the tendency to overregulate the internal life of political parties. Moreover, while acknowledging the legal drafters' objective to strengthen national parties, the draft regulations might also have discriminatory effects against small, in particular regional, parties.

Ms Meaghan Fitzgerald, Acting Head of the ODIHR Democratization Department, drew attention to the fact that the draft law had been the subject of extensive consultations with a broad range of stakeholders. She highlighted positive features of the draft such as new rules to strengthen the transparency of the registration and functioning of political parties, to establish more effective funding and financial reporting requirements and to further delineate the powers of oversight bodies in terms of party finance monitoring. At the same time, the draft opinion included a number of specific recommendations, for example, to further simplify the registration of political parties, to remove the requirement on parties to enter their members in a Unified Register, to amend the rules on donations to political parties, to define more precisely the mandates and competences of oversight bodies and to introduce a wider range of proportionate sanctions in case of violations of the rules.

Some amendments were proposed to cater for the authorities' comments.

The Council approved the joint opinion of the Venice Commission and the OSCE/ODIHR on the draft Law on Political Parties of Ukraine (CDL-AD(2021)003).

5. Election of the President and Vice-president

Before proceeding with the elections, Ms Simona Granata-Menghini verified the convocation and due participation or excused absence of the members of the Council.

The Chair informed the members of the Council that the Secretariat had received a candidature for the position of President (Mr Oliver Kask), and a candidature for the position of Vice-President (Mr Stewart Dickson).

Mr Kask and Mr Dickson presented their programme.

The Council elected Mr Oliver Kask as President and Mr Stewart Dickson as Vice-President of the Council, both for a term of two years.

6. Date of the next meeting

The Council fixed the date of its next meeting for Thursday, 1 July 2021 at 10.00 am.

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

Mr Srdjan DARMANOVIC
 Mr Ben VERMEULEN (apologised/excused)
 Mr Oliver KASK
 Ms Janine OTÁLORA MALASSIS (apologised/excused)

Substitute Members of the CDE / Membres suppléants du CED

Mr Richard BARRETT
 Mr Eirik HOLMØYVIK
 Ms Katherina PABEL
 Mr Pere VILANOVA TRIAS

Other members of the Venice Commission / Autres membres de la Commission de Venise

Mr Nicos ALVIZATOS
 Mr Josep Maria CASTELLA ANDREU
 Mr Michael FRENDI (apologised/excused)
 Mr Jan VELAERS (apologised/excused)

Secretariat / Secrétariat

Ms Simona GRANATA-MENGHINI
 Mr Pierre GARRONE (apologised/excused)
 Mr Rudolf DURR
 Mr Gaël MARTIN-MICALLEF
 Mr Michael JANSSEN
 Ms Tanja GERWIEN
 Ms Silvia GRUNDMANN

PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIREMembers / Membres

Mr Antonio GUTIÉRREZ, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme
 Mrs María Valentina MARTINEZ FERRO, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie
 Mr Tiny KOX, Committee on the Honouring of Obligations and Commitments by member States of the Council of Europe (Monitoring Committee)/ Commission pour le respect des obligations et engagements des Etats membres du Conseil de l'Europe (Commission de suivi) (apologised/excused)

Substitute members / Membres suppléants

Sir Christopher CHOPE, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme
 Mr Piero FASSINO, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie
 Mr Aleksander POCIEJ, Committee on the Honouring of Obligations and Commitments by member States of the Council of Europe (Monitoring Committee)/ Commission pour le respect des obligations et engagements des Etats membres du Conseil de l'Europe (Commission de suivi)

Secretariat / Secrétariat

Mr Bas KLEIN

Ms Agnieszka NACHILO (apologised/excusé)

Expert

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES (CLRAE) / CONGRES DES POUVOIRS LOCAUX ET REGIONAUX (CPLRE)

Members / Membres

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

Mr Stewart DICKSON, Chamber of Regions/Chambre des régions

Substitute members / Membres suppléants

Mr Vladimir PREBILIC, Chamber of Local Authorities/Chambre des pouvoirs locaux

Ms Rosaleen O'GRADY, Chamber of Regions/Chambre des régions

Secretariat / Secrétariat

Ms Renate ZIKMUND

Mr Adam DRNOVSKY

Expert

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

OBSERVERS / OBSERVATEURS

ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE)

Office for Democratic Institutions and Human Rights (ODIHR) / Bureau des institutions démocratiques et des droits de l'Homme (BIDDH)

Mr Ülvi AKHUNDLU, Acting Head of the Election Department

Mr Don BISSON, Election Expert

Ms Kseniya DASHUTSINA Election Adviser

Ms Meaghan FITZGERALD, Acting Head of the Democratization Department

EUROPEAN UNION / UNION EUROPEENNE

European External Action Service (EEAS) / Service européen pour l'action extérieure (SEAE)

European Parliament / Parlement européen

INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE (INTERNATIONAL IDEA)

Ms Nana KALANDADZE, senior programme officer

Mr Sam van der STAAK, Head of Europe Programme

INTERNATIONAL FOUNDATION FOR ELECTORAL SYSTEMS (IFES)

Ms Beata MARTIN-ROZUMIŁOWICZ, Director for Europe and Eurasia

Ms Tetiana KUPISOVSKA, Executive Officer