



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 16 March 2004

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CDL-EL-PV(2004)001
Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**8th MEETING OF
THE COUNCIL FOR DEMOCRATIC ELECTIONS**

(Venice, 11 March 2004 at 9 a.m.)

MEETING REPORT

1. Adoption of the draft agenda

The agenda was adopted as it appears in document CDL-EL-OJ(2004)001ann.

2. Rules of procedure

The Council examined the draft Rules of Procedure revised by the Secretariat on the basis of members' comments (CDL-EL(2003)017rev).

The Council adopted the Rules of Procedure of the Council for Democratic Elections (CDL-EL(2003)017rev), with some modifications.

3. ACEEEO draft Convention

Mr Grabenwarter presented the draft opinion (CDL-EL(2004)006) on the draft ACEEEO Convention on Election Standards, Electoral Rights and Freedoms (CDL(2003)057). He stressed that the draft Convention is an important step in the harmonisation of electoral law. A certain number of points could be revised on the basis of international standards. In particular the principle of proportionality should be clearly mentioned.

Mr Lysenko indicated that the aim of the Convention was to draw up common rules, and elements for evaluating the democratic character of elections, in particular in States in which the democratic tradition is less developed. The Council of Europe should decide whether or not a Convention is desirable. The Venice Commission's opinion could be taken into consideration at the next ACEEEO Annual Conference.

Mr Luchaire had some reservations on the right of foreigners to vote in the case of Andorra, where this concerned the majority of the population.

The Council for Democratic Elections adopted the opinion on the draft ACEEEO Convention on Election Standards, Electoral Rights and Freedoms (CDL-EL(2004)006), with some modifications.

4. E-voting and remote voting

Mr Grabenwarter presented the revised version of the draft report on the compatibility of remote voting and electronic voting with the requirements of the documents of the Council of Europe (CDL-EL(2003)16rev). This study is based on Article 3 of the Additional Protocol to the European Convention on Human Rights and the Code of Good Practice in Electoral matters. The changes from the previous version (CDL-EL(2003)16) are essentially due to new replies received to the questionnaire (IP1(2003)63rev) drawn up by the Group of Specialists on legal, operational and technical standards for e-enabled voting (IP1-S-EE). In conclusion, remote voting including that in a non-controlled and non-supervised environment is in principle compatible with European standards.

Mr Klucka emphasised the importance of information technology for fundamental rights.

The Council for Democratic Elections adopted the report on the compatibility of remote voting and electronic voting with the requirements of the documents of the Council of Europe (CDL-EL(2003)16rev), with some modifications.

5. Media and election observation

Mr Masters presented his report on media monitoring during election observation missions (CDL-EL(2004)005). This document follows on from the work carried out by OSCE/ODIHR in this sphere (see the document entitled "Guidelines on media monitoring during election observation missions). The points where this document could be enhanced are marked in bold type. A certain number of modifications were proposed.

Mr Kaczorowski informed that a meeting on this document had been held in Warsaw in January, involving in particular the Venice Commission Secretariat. The various organisms which had taken part had been asked for written comments. A revised version will be submitted to the Council for Democratic Elections when it is ready.

It was proposed that when the document revised by OSCE/ODIHR is available, a revised report should be prepared developing the question of human rights.

6. Moldova

Mr Jurgens presented the draft Recommendations on the electoral law and electoral administration in Moldova (CDL-EL(2003)015; cf. CDL(2002)141). He indicated that a certain number of points had still to be modified with a view to the preparation of a joint opinion with ODIHR, which will be submitted to the members of the Council for Democratic Elections and forwarded as soon as possible to the Moldovan authorities.

The Council instructed the Secretariat to revise the draft Recommendations on the electoral law and electoral administration of Moldova, in agreement with ODIHR and the members of the Council for Democratic Elections and to forward them to the Moldovan authorities.

7. Azerbaijan

Mr Grabenwarter presented the joint draft Recommendations by the Venice Commission and OSCE/ODIHR on the electoral law and electoral administration in Azerbaijan (CDL-EL(2004)007; cf. CDL(2003)047). He stressed the principal points which would need revising, in the law and in the practice : the complexity of the law, the rules relating to the electoral campaign, the enrolment of voters, appeals, the procedure followed by the electoral commissions, the need for an independent Media Council.

The Council adopted the Recommendations by the Venice Commission and OSCE/ODIHR on the electoral law and electoral administration in Azerbaijan (CDL-EL(2004)007) with a view to forwarding them to the Azeri authorities.

8. Albania

Mr Kaczorowski presented the joint draft Recommendations by the Venice Commission and OSCE/ODIHR on the electoral law and electoral administration in Albania (CDL-EL(2004)002; cf. CDL(2004)009). The new electoral code is the result of the work of the bipartisan Commission created in 2002. The most positive points concern financing, the media and appeals; there are still problems concerning training and functioning of the electoral Commissions, the electoral lists, counting, the system of attributing seats, deadlines. A further revision of the electoral code should shortly be initiated.

The Council instructed the Secretariat to revise the Recommendations by the Venice Commission and OSCE/ODIHR on the electoral law and electoral administration in Albania, in agreement with ODIHR and the members of the Council for Democratic Elections and to forward them to the Albanian authorities.

9. Future activities

a) Recommendations on electoral law and electoral administration : Joint recommendations with OSCE/ODIHR are to be envisaged in a general manner.

For the next meeting recommendation on Serbia and Montenegro will be prepared. OSCE/ODIHR will draw up a first draft.

In principle, joint recommendations with OSCE/ODIHR are also foreseen for Georgia; the deadline will depend in particular on current reforms to the electoral code.

The timeliness of drawing up recommendations on the Russian Federation will be examined at the next meeting, in particular based on the observations of the elections by the Parliamentary Assembly.

Mr Masters pointed out that the Congress of Local and Regional Authorities of the Council of Europe will observe the local elections in Romania and will follow the local elections in Turkey. In addition, Presidential elections will take place in “the former Yugoslav Republic of Macedonia”.

b) It was agreed that OSCE/ODIHR and the Venice Commission Secretariat will make contact with a view to drawing up joint election observation questionnaires.

c) The Council decided to start work on a new study on referendum and to prepare a questionnaire on the basis of the draft drawn up by Mr Luchaire (CDL-EL(2004)003).

d) The Council invited OSCE/ODIHR to make observations on the question of electoral systems, with a view to the preparation of a revised document (cf. CDL-AD(2004)003).

10. Date of the next meetings

The next meetings will take place :
on Thursday, 17 June 2004 from 9 a.m. to 12.30 p.m.
in the afternoon of Saturday, 9 October 2004.

LIST OF PARTICIPANTS

Venice Commission

Mr Christoph Grabenwarter
Mr François Luchaire
Mr Jan Klucka
Mr Ugo Mifsud Bonnici
Mr Peter Paczolay
Mr Hjörtur Torfason

Secretariat

Mr Gianni Buquicchio
Mr Pierre Garrone
Mr Gaël Martin-Micallef

Parliamentary Assembly

Mr Erik Jurgens
Ms Hanns Severinsen
Mr Luc Van den Brande

Congress of Local and Regional Authorities of the Council of Europe (CLRAE)

Mr Ian Micallef
Mr Owen Masters

Secretariat

Mr Riccardo Priore

OSCE/ODIHR

Mr Nicolas Kaczorowski

Association of Central and Eastern European Election Officials (ACEEEO)

Ms Marta Dezsö
Mr Vladimir Lysenko
Mr Attila Peteri