



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

Strasbourg, 23 June 2004

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**Or. fr.**

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

**9<sup>th</sup> MEETING  
OF THE COUNCIL FOR  
DEMOCRATIC ELECTIONS**

**(Venice, 17 June 2004 at 9 a.m.)**

**MEETING REPORT**

### **1. Adoption of the draft agenda and communication by the Secretariat**

The agenda was adopted as it appears in document CDL-EL-OJ(2004)002ann.

Mr Buquicchio informed that the Committee of Ministers of the Council of Europe, at its 114<sup>th</sup> session at Ministerial level (12-13 May 2004), adopted a declaration on the Code of Good Practice in Electoral Matters, and undertook to give political support to this document drawn up by the Council for Democratic Elections. Following this, the Committee of Ministers forwarded to the Parliamentary Assembly a complementary reply to Recommendations 1595(2003) of the Parliamentary Assembly and 124(2003) of the Congress of Local and Regional Authorities of the Council of Europe. Before a decision is taken on whether to draw up a Convention on this matter, the Committee of Ministers prefers, as does the Venice Commission, to take into consideration the experience gained in the application of the Code.

### **2. Election of a Vice-Chairman**

Mr Hjörtur Torfason was elected Vice-Chairman of the Council for Democratic Elections.

### **3. Albania**

Mr Vulchanov presented the revised version of the joint recommendations by the Venice Commission and OSCE/ODIHR on the electoral law and electoral administration in Albania (CDL-EL(2004)002rev; cf. CDL(2004)009) which had been handed over to the Albanian authorities during a joint visit of representatives of the Venice Commission and ODIHR which took place in May 2004. The code includes most of the recommendations made by international organisations following the 2001 elections; there are still some problems with its implementation. The main problem concerns electoral lists; in addition, the functioning of electoral commissions, the rules for allotting seats, counting, financing and time-limits should still need to be looked at. The main obstacle to resolving these problems is political. Even though the recommendations have been positively welcomed by politicians, the work foreseen to create a new commission for the revision of the electoral code is blocked. Mr Garrone informed that the more specific question of electoral lists was then discussed during the visit.

Mr Buquicchio took the opportunity to state how much co-operation with ODIHR is appreciated, not only by the Venice Commission but also by the international community in general.

<p><b>The Council for Democratic Elections adopted the revised version of the joint recommendations by the Venice Commission and OSCE/ODIHR on the electoral law and electoral administration in Albania (CDL-EL(2004)002rev).</b></p>
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#### **4. Moldova**

In the absence of Mr Jurgens, Mr Garrone presented the final version of the joint Recommendations by the Venice Commission and OSCE/ODIHR on the electoral law and electoral administration of Moldova which had been forwarded to the Moldovan authorities (CDL-EL(2003)015rev; cf. CDL(2002)141). The main recommendations concern in particular the secret nature of the ballot, the lowering of the threshold for representation of parties in Parliament and the composition of the Central Electoral Commission. Certain precisions were suggested and retained by the Council for Democratic Elections, in particular a more explicit reference to the Venice Commission's previous opinion (CDL-AD(2003)001). They will be submitted to ODIHR for approval.

**The Council for Democratic Elections adopted the revised version of the joint recommendations by the Venice Commission and OSCE/ODIHR on the electoral law and electoral administration in Moldova (CDL-EL(2003)015rev) with some modifications.**

#### **5. Referendum**

Mr Luchaire and the Secretariat indicated that the questionnaire which had been presented at the March session has been modified to take into account the Commission's previous work (see in particular the guidelines for constitutional referendums at national level (CDL-INF(2001)010). A certain number of modifications were retained with a view to more accuracy.

**The Council for Democratic Elections adopted the questionnaire on the use of referendums, drawn up on the basis of a contribution by Mr Luchaire (CDL-EL(2004)003rev) with some modifications.**

#### **6. Media and observation of elections**

The Council examined the revised version of the draft guidelines of the OSCE/ODIHR on media analysis during election observation missions, on the basis of observations by Mr Masters. Mr Masters and Ms Herdis Thorgeirsdottir will prepare more detailed comments which will be forwarded to ODIHR during the month of July. Any comments made by members during the meeting will be sent to them.

#### **7. Questionnaires on election observation**

The Council examined the election observation questionnaires by the Venice Commission, OSCE/ODIHR and the European Commission, and how they may be harmonised (see in particular document CDL-AD(2003)010). A simplified questionnaire will be drawn up which could be used by different observation teams and serve as a basis for other questionnaires.

## **8. Database “vota”**

Mr Garrone indicated that the creation of the electoral database “vota” was progressing satisfactorily. Preliminary tests will take place during the summer. The Venice Commission Secretariat will then introduce the texts of the electoral laws from the member States into the base, indexing them according to the thesaurus adopted by the Council for Democratic Elections last year (CDL-EL(2003)004rev). Links will be set up to the electoral sections of the web sites of the Venice Commission, the Parliamentary Assembly and the Congress for local and regional authorities of the Council of Europe.

Mr Garrone thanked ODIHR for having accepted that texts which appear in its “legislationline” database be included in the “vota” database. Obviously ODIHR’s contribution will appear in “vota” and is the starting point for co-operation on gathering together and up-dating electoral laws.

## **9. Electronic voting**

The Secretariat indicated that the Group of Specialists on legal, operational and technical standards for e-enabled voting (IP1-S-EE) met on 25-26 March 2004 in Las Palmas and that its next meeting which will take place in Strasbourg on 5-6 July 2004 should lead to the adoption of the draft Committee of Ministers’ Recommendation on legal, operational and technical standards for e-enabled voting. No comments were made on the Venice Commission’s opinion on this matter (CDL-AD(2004)012); the conclusions, in principal favourable to remote voting can therefore be considered as retained by the above-mentioned group.

## **10. UniDem**

Ms Lazarova Trajkovska and Mr Buquicchio informed the Council on the UniDem Seminar on European standards of electoral law in the contemporary constitutionalism which was held in Sofia on 28-29 May 2004; this seminar was a success and enabled members of Constitutional Courts and other specialists in the field of constitutional and electoral law to exchange experiences. The reports will be published in the series “Science and Technique of Democracy”.

The Secretariat informed the Council that a seminar on the results of 15 years of Constitutional experience in Central and Eastern Europe, which will in particular deal with electoral systems and the relationships between the President and Government, will be held in Warsaw in September or October 2004 in co-operation with the Institute for Democracy in Paris and with financial support from the French Prime Minister.

## **11. Electoral web site**

The Secretariat informed the Council that the special file on elections, currently accessible via the Council of Europe Internet Portal, will become an individual web site and will therefore be available to a wider public. It will include files by country and by elections; these files will indicate, amongst other things, election results and the schedule of elections and referendums in European countries.

Members of the Council for Democratic Elections will receive the web site address together with explanations on its contents, in due course.

## **12. Future activities**

### *- Recommendations on electoral law and electoral administration*

It is proposed to draw up joint Recommendations by the Venice Commission and OSCE/ODIHR on the electoral law and electoral administration of Serbia and Montenegro : ODIHR will prepare a first draft with a view to the adoption of a joint opinion at the next meeting (9 October 2004). Reports could be drawn up later on:

- Kosovo (next Assembly elections: 23 October 2004);
- Ukraine (next presidential elections: 31 October 2004);
- Bosnia and Herzegovina (next legislative elections: November 2004).

### *- Training workshops*

The Secretariat informed the Council on proposals to hold training workshops

- in Azerbaijan : an electoral training workshop will be organised in Azerbaijan, in co-operation with CEC and IFES on 8-10 July, with a view to the local elections which will take place in Autumn; the workshop is aimed at training trainers.

- in Ukraine : an electoral training workshop is foreseen for September 2004. It is aimed at members of electoral Commissions and NGOs specialised in electoral matters.

Other workshops could be organised in Bosnia and Herzegovina and in Serbia and Montenegro.

### *- Other activities*

#### *Law on local elections in Romania*

The Secretariat informed the Council that the Parliamentary Assembly of the Council of Europe has requested an expertise from the Venice Commission on the law on local elections in Romania, in particular on the provisions concerning candidates from national minorities standing for election. Messrs Mifsud Bonnici and van Dijk have accepted to act as reporting members. The question of candidates from national minorities standing for election should be examined in a comparative manner.

#### *Parliamentary Assembly document on the participation of women in elections*

The Secretariat informed the Council that the Parliamentary Assembly should adopt at its next session a document on “the participation of women in elections”, recommending the Committee of Ministers to draw up a “Chart on electoral equality”. The Venice Commission’s opinion may be requested.

*Voting restrictions*

Mr Schirmer informed the Council that the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly will request the Venice Commission's opinion on voting restrictions.

**13. Date of the next meeting**

It is recalled that the next meeting will take place on Saturday, 9 October 2004 in the afternoon.

## **LIST OF PARTICIPANTS**

### **Venice Commission**

#### **Members**

Ms Mirjana LAZAROVA TRAJKOVSKA, Judge, Constitutional Court, Skopje  
Mr François LUCHAIRE, Ancien Magistrat du Tribunal constitutionnel d'Andorre, Paris  
Mr Ugo MIFSUD BONNICI, President Emeritus, La Valletta  
Mr Hjörtur TORFASON, Former Judge of the Supreme Court of Iceland, Reykjavik

#### **Substitute Members**

Mr Christoph GRABENWARTER, Professor of Public Law, University of Graz, Graz  
Mr Alain LANCELOT, FNSP, Paris (apologised)  
Mr Peter PACZOLAY, Deputy Head, Office of the President of the Republic, Budapest  
Mr Ángel SÁNCHEZ NAVARRO, SubDirector, Centre for Political and Constitutional Studies, Madrid

#### **Secretariat**

Mr Gianni BUQUICCHIO  
Mr Thomas MARKERT  
Ms Simona GRANATA MENGHINI  
Mr Pierre GARRONE

### **Parliamentary Assembly**

Mr Erik JURGENS, Member of the Parliamentary Assembly, Amsterdam (apologised)  
Ms Hanne SEVERINSEN, Member of PACE, Copenhagen  
Mr Luc VAN DEN BRANDE, Senator, Bruxelles

#### **Secretariat**

Ms Danielle COIN (apologised)  
Mr Vladimir DRONOV (apologised)  
Mr Guenter SCHIRMER

### **Congress of Local and Regional Authorities of Europe (CLRAE)**

Mr Ian MICALLEF, Chamber of Local Authorities (apologised)  
Mr Gianfranco MARTINI, Chamber of Local Authorities  
Mr Owen MASTERS, Chamber of Regions, Council of Europe Secretariat Office in Kosovo, Pristina (apologised)

#### **Secretariat**

Mr Riccardo PRIORE (apologised)  
Mr Ulrich BOHNER

**Integrated Project**

Mr Michael REMMERT (apologised)

**Observers**

**OSCE/BIDDH**

Mr Gerald MITCHELL, Head of Election Section (apologised)

Mr Nikolai VULCHANOV, Deputy Head of the Election Section

Mr Denis PETIT, Head of the Legislative Support Unit (apologised)

**Association of Central & Eastern European Election Officials (ACEEEO)**

Ms Marta DEZSÖ, Election Law Expert, Director of the ACEEEO, Documentation Centre,  
Budapest (apologised)