



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 6 December 2004

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Or. fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**11th MEETING
OF THE COUNCIL FOR DEMOCRATIC
ELECTIONS**

(Venice, 2 December 2004 at 2 p.m.)

MEETING REPORT

1. Adoption of the agenda

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

2. Electoral rules and affirmative action for national minorities

The Council examined the report on electoral rules and affirmative action for national minorities, drawn up by Ms Lazarova Trajkovska (CDL-EL(2004)020rev). The reporting member stressed that the aim of this documents had been to study the situation in different countries and that it was of a purely informative nature. Nevertheless, several member of the Council for Democratic Elections were of the opinion that it would be advisable to reflect a little longer on the problems raised in the report on national minorities and to take into consideration the comments sent by the OSCE High Commissioner for National Minorities.

The Council decided to re-examine document CDL-EL(2004)020rev at its next meeting in March 2005 with a view to its formal adoption. Members are invited to send their comments on the text to the Secretariat as soon as possible.

3. Law on local elections in Romania

The Council examined with a view to its adoption the draft opinion on the law on local elections in Romania (CDL-EL(2004)027; cf. CDL(2004)115), drawn up on the basis of comments by Messrs van Dijk and Mifsud Bonnici. The reporting members were of the opinion that the law which had been examined was generally speaking in conformity with democratic standards. At the same time they indicated that certain provisions with respect to the principle of equality could be a problem. The reporting members stressed in particular that there were an excessive number of obstacles to the presentation of candidates by the lists from those national minorities not represented in Parliament.

The Council adopted the draft opinion on the law on local elections in Romania (CDL-EL(2004)027 and requested the Secretariat to forward it to the Parliamentary Assembly of the Council of Europe following approval by the Venice Commission.

4. Revision of the Armenian Electoral Code

The Secretariat informed the Council on progress of work on the Armenian electoral code. The Council adopted the joint opinion of the Venice Commission and OSCE/ODIHR on the draft amendments to the Armenian Electoral Code (CDL-EL(2004)016rev). This opinion had already been sent to the Armenian authorities.

The Armenian parliament had examined the draft, and, according to information from Mr Torossian, Speaker of the Parliament, a revised version of the draft will include the majority of the Commission's proposals. The translation of this modified draft will shortly be sent to the Secretariat. The reporting members should visit Yerevan in mid-January for an exchange of views with the Armenian authorities.

5. Restrictions to the right to vote

The Council examined the reports by Ms Lazarova Trajkovska and Mr Matscher (CDL-EL(2004)022 and CDL-EL(2004)023), on restrictions to the right to vote, the first presenting a comparative perspective and the second being based on the provisions of the European Convention on Human Rights and the case-law of the European Court of Human Rights. The participants at the meeting were agreed on the reports' contents, however they requested Ms Lazarova Trajkovska to complete the comparative report on the basis of information which had been received after the draft was completed. It was not decided not the draw up a consolidated report but to forward the two documents to the Parliamentary Assembly of the Council of Europe indicating that the reports deal with the right and eligibility vote and not the forfeiture of the term of office.

The Council adopted the reports by Ms Lazarova Trajkovska and Mr Matscher (CDL-EL(2004)022 and CDL-EL(2004)023) with some modifications and instructed the Secretariat to forward them to the Parliamentary Assembly of the Council of Europe following approval by the Venice Commission.

6. Declaration of principles and code of conduct for international election observers

The Council was invited to adopt the comments by Mr Masters (CDL-EL(2004)026) on the declaration of principles for international election observation and code of conduct for international election observers (CDL-EL(2004)025). Mr Masters presented his comments stating that that were quite brief as the text submitted to him was fairly complete and did not present any particular problems as to European standards. He was of the opinion that the Commission could support this initiative.

The Council adopted the comments by Mr Masters (CDL-EL(2004)026) and instructed the Secretariat to forward them to the authors of the declaration of principles for international election observation and code of conduct for international election observers, following approval by the Venice Commission.

7. "Vota" database: revised thesaurus

The Council adopted the revised thesaurus for the "Vota" database (CDL-EL(2004)021).

8. Croatia

The Secretariat informed the Council of the developments in co-operation with Croatia, in particular the seminar which took place in Zagreb on 18-19 November 2004. During the seminar which was co-organised with the OSCE office in Zagreb, the participants had discussed questions such as the creation of a permanent electoral Commission, the financing of electoral campaigns, electoral lists, the reform of the legislation with a view to making it uniform and to applying European standards in internal legislation. According to the Seminar's conclusions, the Venice Commission could be invited to co-operate with the Croatian authorities on the possible reform of electoral legislation.

9. Ukraine

The Council was informed about the Venice Commission's participation in the observation of the Presidential elections in Ukraine. This first invitation from the Parliamentary Assembly of the Council of Europe was exceptional as the Venice Commission had not examined the law on the Presidential election. According to the agreement between the Commission and the Assembly, Commission experts participate in missions to countries whose electoral legislation has previously been examined. However the mission can be considered a success as the Commission representatives were able to evaluate the application of the electoral legislation.

Ms Severinsen informed the Council of her impressions of the Presidential election in Ukraine. She was of the opinion that Ukraine should make considerable amendments to the electoral laws to enable them to fully conform to democratic standards. In her opinion the current norms do not give sufficient guarantees against electoral fraud.

10. Participation of political parties in the electoral process

The Secretariat informed the Council on the proposals for activities relating to the participation of political parties in the electoral process (see CDL-EL(2004)024). This subject had never been studied by the Commission in a general manner, although it had been confronted by this type of problem in its co-operation with various member countries. A general study would be useful to make clear the Commission's position regarding this important subject.

The Council decided to study the question of the participation of political parties in the electoral process and invited interested members to contact the Secretariat for the follow-up.

11. Questionnaires for election observers

The Secretariat informed the Council on progress of work concerning questionnaires for election observers, following the adoption of a provisional version of these questionnaires during the last meeting (CDL-EL(2004)014rev). Questionnaires should be completed following the observations missions organised in Ukraine and Moldova by the Parliamentary Assembly of the Council of Europe, as well as in Azerbaijan by the CLRAE.

12. Co-operation with the Inter-Parliamentary Union

The Secretariat informed the Council of the co-operation with the Inter-Parliamentary Union, in particular the Conference which took place in Geneva on 12-13 November 2004 on the criteria for free and fair elections. The Inter-Parliamentary Union is aiming to modify its publication on elections following the Conference. Representatives of the Venice Commission could be invited to take part in other activities of the Inter-Parliamentary Union in 2005.

13. European conference of electoral management bodies

The Secretariat informed the Council on progress of the preparation for the 2nd Conference of electoral management bodies, which will take place in Strasbourg on 10-11 February 2005. At the moment of the meeting of the Council, the Secretariat had received confirmation of attendance from electoral administrations of Austria, Belgium, Cyprus, Denmark, Ireland, Latvia, Lithuania, Poland, Sweden and the United Kingdom. The participation of other international organisations is also envisaged.

The Council took note of the Secretariat information and invited interested members to participate in the Conference and to contact the Venice Commission Secretariat.

14. Media monitoring during election observation missions

Mr Masters informed the Council about the process of work concerning the guidelines on media monitoring during election observation missions. He gave a very positive evaluation of a series of provisions of the guidelines, in particular the proposals on the protection of journalists, the regulation of mass media ownership and the demands concerning the diversity of media which cover the electoral process. Mr Masters thought that the guidelines constitute a good example of standards to be followed.

15. Future activities

The Council examined possible future activities :

- *Recommendations on electoral law and electoral administration*

The Council was informed that recommendations could be drawn up for :

- Serbia (OSCE/ODIHR will prepare a first draft)
- Bosnia and Herzegovina
- Ukraine
- Kosovo
- Georgia

These recommendations should in principle be drawn up in co-operation with OSCE/ODIHR.

- *Venice Commission participation in election observation missions in accordance with item 15 of the agreement with the Parliamentary Assembly of the Council of Europe*

Forthcoming assistance missions should take place during 2005 in the following States: Moldova and Albania on the proviso that the Parliamentary Assembly organise election observation missions to these countries.

Members were invited to make proposals for future activities.

16. Date of the next meeting

The Council decided to hold its next meeting on Thursday, 10 March 2005 at 9.00 a.m.

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS

Commission de Venise/Venice Commission

Membres/Members

Ms Mirjana LAZAROVA TRAJKOVSKA, Judge, Constitutional Court, Skopje
M. 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
(excusé/apologised)

Membres suppléants/Substitute members

Mr Christoph GRABENWARTER, Professor of Public Law, University of Graz, Graz
(excusé/apologised)
M. Alain LANCELOT, FNSP, Paris
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 (excusé/apologised)

Secrétariat

M. Gianni BUQUICCHIO
M. Thomas MARKERT
M. Pierre GARRONE
M. Serguei KOUZNETSOV

Assemblée parlementaire/Parliamentary Assembly

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

Secrétariat

Mr Guenter SCHIRMER

Congrès des Pouvoirs Locaux et Régionaux du Conseil de l'Europe (CPLRE)/Congress of Local and Regional Authorities of the Council of Europe (CLRAE)

Mr Ian MICALLEF, Chambre des pouvoirs locaux (excusé/apologised)
Mr Owen MASTERS, Chambre des régions, Council of Europe Secretariat Office in Kosovo, Pristina

Projet intégré/Integrated Project

M. Michael REMMERT (excusé/apologised)

Observateurs/Observers

OSCE-BIDDH/OSCE-ODIHR

Mr Nikolai VULCHANOV, Deputy Head of the Election Section

Mr Konrad OLSZEWSKI, Election Adviser

Association of Central & Eastern European Election Officials (ACEEEO)

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