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

**14<sup>th</sup> MEETING**  
**OF THE COUNCIL FOR DEMOCRATIC ELECTIONS**  
**(Venice, 20 October 2005 at 9.45 a.m.)**

**MEETING REPORT**

## 1. Adoption of the agenda

The Council adopted its agenda as it appears in document CDL-EL-OJ(2005)003ann.

Owing to this meeting's very full agenda, the Council decided that some documents could be adopted without discussion, in particular when, in view of their urgent nature, they have already been forwarded to the authorities or body which made the request.

## 2. Armenia

During its last meeting, the Council for Democratic Elections and the Venice Commission endorsed the interim joint opinion of the Venice Commission and OSCE/ODIHR on the revised draft amendments to the Armenian Electoral Code (CDL-AD(2005)019). The final text of the amendments ([CDL-EL\(2005\)024](#); see the electoral code CDL(2003)052), has been adopted and the draft opinion (CDL-EL(2005)028) was drawn up on the basis of comments made by Messrs Annus and Pilgrim on this text.

Mr Buquicchio informed the Council that, on 27 November 2005, the Armenian authorities will organise a referendum on the constitutional amendments. The Venice Commission had given an opinion on these amendments and a large number of the proposals made had been integrated into the text.

**The Council adopted the draft joint final opinion of the Venice Commission and OSCE/ODIHR on the amendments to the Armenian Electoral Code (CDL-EL(2005)028).**

## 3. Azerbaijan

During its last meeting, the Council for Democratic Elections and the Venice Commission endorsed the interim joint opinion of the Venice Commission and OSCE/ODIHR on the revised draft amendments to the Electoral Code of Azerbaijan (CDL-AD(2005)018). The final text of the amendments ([CDL-EL\(2005\)030](#)) has since been adopted and the draft opinion (CDL-EL(2005)029rev) was drawn up on the basis of comments made by Messrs Nolte, Paczolay and Maleev on this text.

Mr Paczolay presented the final draft opinion. He regretted that the authorities had not modified a whole series of problematic provisions which had been mentioned in the interim opinion, in particular concerning the composition of electoral commissions. In the reporting member's opinion the text of the Code amended in June 2005 is not completely in conformity with Azerbaijan's international commitments.

Ms Severinsen informed the members of the Council for Democratic Elections that the pre-electoral mission of the Parliamentary Assembly which went to Azerbaijan in October determined a whole series of problems with the electoral lists, the rights of observers and the protection of rights of candidates to a fair campaign. She suggested completing the text of the final opinion by stressing further the importance of inking fingers to avoid multiple voting, protecting the rights of citizens living abroad and the right of NGOs to observe the ballot, regardless of their financing.

**The Council adopted the draft joint final opinion of the Venice Commission and OSCE/ODIHR on the amendments to the Electoral Code of Azerbaijan ([CDL-EL\(2005\)029rev](#)) and requested the Secretariat to complete the text with the elements suggested by Ms Severinsen, subject to OSCE/ODIHR's agreement.**

#### **4. Serbia and Montenegro**

##### **- Electoral Law in Serbia**

OSCE/ODIHR has prepared a document on the electoral law of Serbia (see [CDL-EL\(2005\)025](#), [026](#) and [027](#)). The Council for Democratic Elections was informed on progress of work. It was noted that the text of the joint observations of the Venice Commission and OSCE/ODIHR will be ready for the December meeting.

##### **- Referendum in Montenegro**

Following requests from the Parliamentary Assembly and the authorities of Serbia and Montenegro, three members of the Commission, Messrs Closa Montero, Tuori and Bradley, had prepared comments on the compatibility of the existing legislation in Montenegro concerning referendums with international standards with a special focus on the issues of required turnout, the majority required and the criteria for the eligibility to vote. The reporting members met on 13 October in Frankfurt with participants from OSCE/ODIHR and a draft opinion should be submitted to the Council at its December meeting.

#### **5. Ukraine**

Following a request from the Ukrainian authorities, Messrs Annus (CDL-EL(2005)046) and Sanchez Navarro (CDL-EL(2005)045) prepared comments on the law on the election of people's deputies of Ukraine ([CDL-EL\(2005\)021](#)) and on the law on the state register of voters of Ukraine ([CDL-EL\(2005\)022](#)). A draft joint opinion should be submitted to the Council at its December meeting.

Mr Sanchez Navarro informed the Commission that the law on the election of people's deputies of Ukraine is too long and repetitive and that it contains a large number of procedural details which make it difficult to apply. He also regretted that there are different laws for different elections establishing a legislative framework which is, in general, too rigid. He invited the members of the Council who wish to make comments on the draft opinion of the reporting members to do so before 15 November 2005.

The Secretariats of the Venice Commission and ODIHR will prepare a consolidated text for the December meeting.

#### **6. Media monitoring during election observation missions**

**The Council adopted the final version of the document on media monitoring during election observation missions (CDL-EL(2005)043).**

## 7. Referendum

### - Comparative study

On the basis of replies (CDL-EL(2004)011) to the questionnaire on the use of referendums (CDL(2004)031), the Venice Commission secretariat prepared a draft report on referendums (CDL-EL(2005)020), together with summary tables (CDL-EL(2005)020add and add2). These texts were submitted for comment, at several stages of their preparation, to the members of the Council for Democratic Elections and the Venice Commission.

Mr Luchaire presented these documents, emphasising those sections relating, amongst others, to quorum, the right to initiative and to financing of referendums. He informed the Council for Democratic Elections that the reports are very comprehensive and they should be followed up by guidelines on the subject.

**The Council adopted the report on “European referendums – an analysis of the legal rules in European States” and the summary tables appended to it (CDL-EL(2005)020 and 020add and add2).**

### - Parliamentary Assembly Recommendation 1704

Mr Luchaire reminded the Council that the Parliamentary Assembly had requested the Venice Commission’s opinion for 30 September 2005 on PACE Recommendation 1704 on referendums: towards good practices in Europe. The draft opinion ([CDL-EL\(2005\)032](#)), drawn up on the basis of comments by Messrs van Dijk, Luchaire and Malinverni was forwarded to the Parliamentary Assembly after having been submitted for comment to the members of the Council for Democratic Elections.

**The Council adopted the opinion on Parliamentary Assembly Recommendation 1704 on referendums: towards good practices in Europe ([CDL-EL\(2005\)032](#)).**

## 8. Women’s participation in elections

Following the adoption of the Venice Commission’s comments made to the Committee of Ministers on Recommendation 1676 (2004) of the Parliamentary Assembly on Women’s participation in elections (CDL-AD(2005)002), the Committee of Ministers has therefore invited the Venice Commission to consider as a first step whether the relevant provisions of the Code of Good Practice in Electoral Matters dealing with electoral equality could be strengthened or complemented to take account of some of the proposals made by the Parliamentary Assembly. It invited the Venice Commission, in the framework of the Council for Democratic Elections, to associate the Parliamentary Assembly, the Congress of Local and Regional Authorities of the Council of Europe, the CDEG and the CDLR with this work (CM/AS(2005)Rec1676 final, item 6).

Following this request, a draft declaration on women’s participation in elections was drawn up based on comments by Mr Luchaire and Ms Suchocka ([CDL-EL\(2005\)031](#)).

The Council took note of the progress of work on the declaration on women's participation in elections (CDL-EL(2005)031). A revised text which takes into consideration the comments of the CDLR could be submitted to the Council at its next meeting.

## **9. Stability of electoral law**

During its last meeting the Council examined a first draft interpretative declaration of the code of good practice in electoral matters, concerning the stability of electoral law (cf. CDL-AD(2002)023rev, item II.2.b). The Secretariat has revised this text on the basis of members' comments, restricting it to the most relevant points (CDL-EL(2005)017rev).

The Secretariat presented a new version of this text indicating that the principal aim was to be more precise in order to avoid different interpretations of the provisions of the Code of Good Practice.

Following an exchange of views on the new version of the text, Mr Jurgens proposed that this question should be postponed to the December meeting.

The Council decided to continue the discussion of the declaration on the stability of electoral law (CDL-EL(2005)017rev) at its December meeting.

## **10. Restrictions on the right to vote**

Following the adoption of two reports on the abolition of restrictions on the right to vote in legislative elections by the Council for Democratic Elections and the Venice Commission ([CDL-AD\(2005\)011](#) and [012](#)), the Parliamentary Assembly adopted Recommendation 1714(2005) on the abolition of restrictions on the right to vote. The Committee of Ministers requested the Venice Commission's comments on this recommendation by 31 October 2005.

Ms Lazarova Trajkovska presented the documents which had been prepared on the basis of observations by Mr Matscher and herself on recommendation 1714. In her opinion, the Assembly document is precise and she considers that the member States of the Council of Europe should ratify as soon as possible the Convention on the participation of foreigners in public life at a local level.

Mr Masters suggested amending the reporting members' text by adding a reference to the period of residence necessary for non-citizens to obtain voting rights in local elections.

Mr Luchaire observed that an exception should be made for small countries where the number of citizens may be lower than the number of foreign residents. Mr Chagnollaud supported this proposal.

Mr Mifsud Bonnici and Mr Torfason asked the Council to consider a certain change in the wording of the paragraph concerning the voting rights of members of the military and persons serving in the police force, which was accepted.

<p><b>The Council adopted the opinion on Parliamentary Assembly Recommendation on the abolition of restrictions on the right to vote (CDL-EL(2005)041), with some amendments.</b></p>
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## 11. Declaration of principles for international election observation

**The Council adopted the declaration of principles for international election observation (CDL-EL(2005)042).**

## 12. Secrecy of the vote during indirect elections

The Parliamentary Assembly's Monitoring Committee requested the Venice Commission to invite the Council for Democratic Elections to prepare a study on European practices and standards concerning secrecy of the vote in the context of parliamentary procedure. It has been decided to submit this matter to the Commission's plenary session for a decision on the steps to be taken.

## 13. "Vota" Forum (I)

The "Vota" Forum is now available on-line (<http://www.team10.coe.int/cdlel/Lists/NewsGroup/AllItems.aspx>). This site enables the exchange of ideas on questions and on-going activities in the electoral field. It is open to members of the Council for Democratic Elections and European Electoral Administrations.

## 14. Future activities

- *Opinions and recommendations on electoral law*

### *Croatia*

The Venice Commission and OSCE/ODIHR should shortly receive from the OSCE Office in Zagreb a request for opinion on the draft law on the Central Electoral Commission.

### *Georgia*

The Venice Commission received a request for opinion on the latest amendments to the electoral code of Georgia.

### *Moldova*

The Venice Commission and OSCE/ODIHR are preparing joint recommendations on the electoral law and electoral of Moldova, which will be submitted to the Council for Democratic Elections at its next meeting.

### *Ukraine*

New requests could be received for :

- the law on the Presidential elections;
- the law on the elections to the Parliament of the Crimea.

*Kosovo*

Mr Masters informed the Council on the latest developments in Kosovo. No request for opinion has been received for the moment.

All these opinions and recommendations should in principle be prepared in co-operation with OSCE/ODIHR.

- *Study on electoral law in Europe*

Mr Krennerich, Venice Commission expert, is preparing a summary report which will take into account the Venice Commission's recent opinions in the electoral field, as well as the observation reports of the Parliamentary Assembly, the Congress of Local and Regional Authorities of the Council of Europe and the OSCE.

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

The next assistance mission will take place in Azerbaijan in November 2005.

**15. Co-operation with OSCE/ODIHR**

Mr Vulchanov informed the Council on the activities of ODIHR. He pointed out, amongst others, that ODIHR is closely following the latest developments in Kosovo and Montenegro. The next meeting on election observation organised by OSCE/ODIHR should take place shortly either in Warsaw or in Moscow (place and exact date to be confirmed). The Council for Democratic Elections is invited to send representatives to this meeting.

**16. Date of the next meeting**

The next meeting will take place on Thursday, 15 December 2005 starting at 9h45.

**LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS****Commission de Venise / Venice Commission****Membres / Members**

M. Dominique CHAGNOLLAUD, Membre de la Cour Suprême, Professeur, Paris II  
Mrs 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, **Vice-Président/Vice-Chair**

**Membres suppléants / Substitute Members**

Mr Peter PACZOLAY, Deputy Head, Office of the President of the Republic, Budapest  
Mr Ángel SÁNCHEZ NAVARRO, Professor of Constitutional Law, Complutense University, Madrid  
Mrs Eliska WAGNEROVA, Vice-President, Constitutional Court of the Czech Republic

**Secrétariat / Secretariat**

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

**Assemblée parlementaire / Parliamentary Assembly****Membres / Members**

Mr Erik JURGENS, Member of the Parliamentary Assembly, Amsterdam, Legal Commission, **Président/Chair**  
Mme Josette DURRIEU, Sénat, Paris, Commission politique  
M. Luc VAN DEN BRANDE, Sénateur, Bruxelles, Commission de suivi

**Membres suppléants / Substitute Members**

Ms Hanne SEVERINSEN, Member of PACE, Copenhagen, Political Commission

**Secrétariat / Secretariat**

Mr Andrew DRZEMCZEWSKI

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

Mr Ian MICALLEF, Malta, Chamber of Local Authorities  
Mr Owen MASTERS, Devon County Council, Kingsbridge, Chambre des régions

**Secrétariat / Secretariat**

Mr Daniil KHOCHABO



**Observateurs / Observers**

**OSCE**

**BIDDH/ODIHR**

Mr Nikolai VULCHANOV, Deputy Head of the Election Section, Warsaw

M. Konrad OLSZEWSKI, Desk Officer, Warsaw