



Strasbourg, 23 March 2006

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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

16th MEETING
OF THE COUNCIL FOR DEMOCRATIC ELECTIONS
(Venice, 18 March 2006 at 2.30 p.m.)

MEETING REPORT

1. Adoption of the agenda

The Council adopted its agenda as it appears in document CDL-EL-OJ(2006)001ann.

2. Election of the Chair

Following Mr Jurgens' resignation, the Council elected Mr Luc Van Den Brande as Chair of the Council for Democratic Elections.

3. Participation of political parties in elections

The Secretariat had prepared a draft report on the participation of political parties in elections ([CDL-EL\(2006\)016](#)), on the basis of comments by Messrs Sanchez Navarro ([CDL-EL\(2005\)018](#)) and Vogel ([CDL-EL\(2005\)057](#)).

The Secretariat presented the draft report underlining the fact that the Council had already discussed and approved the individual opinions of the rapporteurs at its previous meeting. The examined text integrated different proposals of the members of the Council.

Mr Micallef proposed modifying paragraph 43 of the report by adding that the observers should have the right to observe the entire electoral process. He also suggested developing paragraph 21 by accepting a possibility to have different models of composition of the electoral commissions.

Mrs Severinsen proposed to change the wording of paragraph 44. She was of the opinion that the conclusion should be clear on the further steps to be taken after the adoption of the report.

Following a proposal from the Chair, members of the Council agreed that the wording of the conclusions should propose to the member States of the Council of Europe "*to contribute to the elaboration of common standards in the field of participation of political parties in the electoral process*".

The Council adopted the report on the participation of political parties in elections ([CDL-EL\(2006\)016](#)) with the proposed amendments and decided to submit it for adoption during the plenary session of the Venice Commission in June 2006.

4. Guidelines on referendums

The Secretariat informed the Council on progress of work on the guidelines on referendums. A group of experts, including Messrs van Dijk, Luchaire and Malinverni had already prepared a draft in co-operation with the secretariat. A completed draft will be submitted to the Council at its next meeting.

The Council decided that these guidelines should include, *mutatis mutandis*, the rules applicable to elections as defined in the Code of Good Practice in Electoral Matters (CDL-AD(2002)023rev).

5. Women's participation in elections

At its previous meeting in December 2005, the Council had examined the draft declaration on women's participation in elections, drawn up on the basis of observations by Mr Luchaire and Ms Suchocka.

The Secretariat informed the Council that the amendments proposed at the previous meeting had been incorporated into the document [CDL-EL\(2006\)010](#) by the Secretariat. A few further amendments were suggested by Ms Durrieu and Mr Chagnollaude.

After a short discussion including proposals from the Chair and Mr Chagnollaude, the Council accepted a revised version of the text.

The Council adopted document [CDL-EL\(2006\)010](#) with amendments as proposed by members.

6. Secrecy of the vote in the context of parliamentary procedure

Following a request from the Parliamentary Assembly's Monitoring Committee, a draft questionnaire on secrecy of the vote in the context of parliamentary procedure had been drawn up on the basis of comments by Mr Chagnollaude ([CDL-EL\(2006\)004](#)).

The Council adopted the draft questionnaire on secrecy of the vote in the context of parliamentary procedure ([CDL-EL\(2006\)004](#)), with a few amendments.

7. Bosnia and Herzegovina

The Secretariat informed the Council on the drafting of a joint opinion by the Venice Commission and OSCE/ODIHR on the draft revision to the electoral law of Bosnia and Herzegovina ([CDL-EL\(2006\)013](#) and [CDL\(2001\)089](#)).

Following the announcement by the authorities of Bosnia and Herzegovina of the constitutional reform which would integrate some proposals concerning the electoral system, the respective secretariats of the Venice Commission and OSCE/ODIHR were of opinion that work on the draft revision of the electoral law could only resume when the nature of changes in the electoral system is clear.

The Council took note of the information and authorised the secretariat, in agreement with the rapporteurs and OSCE/ODIHR, to forward the draft opinion on the draft revision of electoral legislation to the Bosnia and Herzegovina authorities before the next meeting if the matter becomes urgent.

8. Georgia

The Georgian authorities had submitted a revised version of the electoral code to the Venice Commission ([CDL-EL\(2006\)009](#)).

The Council examined the draft joint opinion by the Venice Commission and OSCE/ODIHR on this revised version ([CDL-EL\(2006\)017](#)) drawn up on the basis of comments by Mrs Lazarova Trajkovska, Mr Owen and Mr Pilgrim (OSCE/ODIHR).

Mr Saphy informed the Council that the rapporteurs had sent some remarks on the initial text. The request from the authorities to examine the amendments had been made in November 2005. The amendments made since were of a substantial and complex nature since they concerned parliamentary and local elections as well as the election of the Mayor of Tbilisi. After the review by the rapporteurs, the recommendations for improvement concerned mostly the following areas:

- a) independence of the electoral commissions;
- b) equality of vote;
- c) independent candidates (there was no provision on this issue in the law);
- d) voting procedures and
- e) complaints and appeals system.

Mr Micallef congratulated the rapporteurs for their work and pointed out a number of additional problems as identified by the CLRAE, notably the location of polling stations, the secrecy of vote, the choice of seats by candidates running for both national and local elections, voting by military personnel etc.

Mr Saphy explained that some of these issues were dealt with by the new amendments to the Election Code.

The Council adopted the draft joint opinion ([CDL-EL\(2006\)017](#)), asking the secretariat to take account of the proposed amendments, in agreement with the rapporteurs and the OSCE/ODIHR and instructed the Secretariat to transmit the text to the Georgian authorities.

9. Future activities

The representative of OSCE/ODIHR informed the Council on recent developments concerning the electoral law of Albania. For the time being, the revision of the electoral code had not started.

The Secretariat informed the Council that the Venice Commission would take part in the Parliamentary Assembly's observation mission to Ukraine (March). Participation in observation missions in the following countries during 2006 was also envisaged: Montenegro (Referendum in May); "the former Yugoslav Republic of Macedonia" (Parliamentary elections in June or September); Bosnia and Herzegovina (Parliamentary and presidential elections in Autumn).

The 3rd European Conference of Electoral Management Bodies, organised by the Venice Commission in co-operation with the Russian authorities, in the framework of the Russian Chairmanship of the Committee of Ministers, would take place in Moscow on 22-23 May 2006. The subject of the Conference is Development and codification of international standards in the field of elections.

The study on electoral law in Europe will be submitted to the next meeting of the Council.

Mr Gross raised the issue of the majority required for the referendum to be held in Montenegro. He was of the opinion that the provision according to which the proposal for independence is accepted only if 55 % of the voters taking part in the referendum vote in favour is not a satisfactory solution. The Secretariat informed that this figure was not a recommendation of the Venice Commission. The Commission had proposed an option based on a minimum percentage of registered voters but had not excluded a solution based on a qualified majority of voters. The adopted text was a compromise between the different political forces in Montenegro which had been proposed by the European Union.

10. Co-operation with OSCE/ODIHR

The Council held an exchange of views with the representatives of OSCE/ODIHR on the possibilities of future co-operation. In particular, a new opinion should be prepared on a draft revision of the Electoral Code of Armenia.

11. Date of the next meeting

The next meeting will take place on Thursday, 8 June at 14h00 (subject to confirmation).

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS**COMMISSION DE VENISE / VENICE COMMISSION**Membres / Members

M. Dominique CHAGNOLLAUD, Membre du Tribunal Suprême, Université de droit, d'économie et de sciences sociales, Paris

Mr Peter PACZOLAY, Deputy Head, Office of the President of the Republic, Budapest

Mr Hjörtur TORFASON, Former Judge of the Supreme Court of Iceland, Reykjavik,

Mr Ugo MIFSUD-BONNICI, President Emeritus, La Valletta

Mrs Mirjana LAZAROVA TRAJKOVSKA, Judge, Constitutional Court, Skopje
(excusé/apologised)

Membres suppléants / Substitute Members

Ms Eliska WAGNEROVA, Vice-President, Constitutional Court of the Czech Republic, Brno
(excusé/apologised)

Mr Ángel SÁNCHEZ NAVARRO, Professor of Constitutional Law, Complutense University, Madrid (excusé/apologised)

Mr Anthony BRADLEY, Professor, London (excusé/apologised)

Secrétariat / Secretariat

M. Gianni BUQUICCHIO

M. Thomas MARKERT

M. Pierre GARRONE

M. Sergueï KOUZNETSOV

ASSEMBLEE PARLEMENTAIRE / PARLIAMENTARY ASSEMBLYMembres / Members

M. Andreas GROSS, Zurich, Commission juridique

Mme Josette DURRIEU, Paris, Commission politique

M. Luc VAN DEN BRANDE, Bruxelles, Commission de suivi, **Chair/ Président**

Membres suppléants / Substitute Members

Mrs Hanne SEVERINSEN, Copenhagen, Commission politique

Mrs Merixtell BATET, Madrid, Committee on Legal Affairs and Human Rights
(excusée/apologised)

Mr Emanuelis ZINGERIS, Vilnius, Monitoring Committee (excusé/apologised)

**CONGRES DES POUVOIRS LOCAUX ET REGIONAUX DU CONSEIL DE L'EUROPE
(CPLRE) / CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF THE
COUNCIL OF EUROPE (CLRAE)**Membres / Members

M. Ian MICALLEF, Malte, Chambre des pouvoirs locaux

M. David SHAKESPEARE, Aylesbury, Chambre des régions

Membres suppléants / Substitute Members

M. Gianfranco MARTINI, Rome, Chambre des pouvoirs locaux (excusé/apologised)

Mme Marie-Rose KORÓ, Caen, Chambre des régions (excusée/apologised)

Secrétariat / Secretariat

Mrs Antonella CAGNOLATI (excusée/apologised)

Comité directeur pour l'égalité entre les femmes et les hommes/ Steering Committee for equality between women and men (CDEG)

Mme Isabel ROMAO, Chef de Division Etudes et Formation, Commission pour l'égalité et les droits des femmes, Lisbonne (excusée/apologised)

Comité directeur sur la démocratie locale et régionale/ Steering Committee on local and regional democracy (CDLR)

Mrs Greta BILLING, Deputy Director General, The Royal Ministry of Local Government and Regional Development, Oslo (excusée/apologised)

OBSERVATEURS / OBSERVERS

OSCE

BIDDH/ODIHR

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

Mr Gilles SAPHY, Election Adviser, Warsaw

Assemblée parlementaire OSCE/OSCE Parliamentary Assembly

Mr Pentti VÄÄNÄNEN, Deputy Secretary General, Copenhagen (excusé/apologised)

Association of Central & Eastern European Election Officials (ACEEEO)

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