



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 20 June 2006

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Or. fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

17th MEETING
OF THE COUNCIL FOR DEMOCRATIC ELECTIONS
(Venice, 8 June 2006 at 5 p.m.
and 9 June 2006 at 8.30 a.m.)

MEETING REPORT

1. Adoption of the agenda

The Council adopted its agenda as it appears in document CDL-EL-OJ(2006)002ann.

2. Election of the Vice-Chair

Following the expiration of the term of office of its Vice-President, Mr Hjörtur Torfason, the Council was invited to elect a new Vice-President. Mr van den Brande thanked Mr Hjörtur Torfason, on behalf of the Council, for his work as Vice-President.

The Council elected Ms Lazarova Trajkovska Vice-President.

3. Co-operation with the OSCE

Mr Krzysztof Drzewicki, representative of the OSCE High Commissioner for National Minorities, presented the issue of double voting rights for persons belonging to national minorities. The question was whether it was acceptable for members of national minorities to be entitled to vote both in elections to the same seats as other voters and in elections to reserved seats.

It was agreed that this constituted a somewhat controversial exception to the equal suffrage principle. There was also the issue of the powers to be exercised by persons elected by members of national minorities. The Council decided to examine this matter and identify approaches that had already been successfully applied. Mrs Durrieu was appointed rapporteur. Mr Drzewicki said that the Office of the OSCE High Commissioner for National Minorities would supply reference documents.

There was a discussion with representatives of the OSCE/ODIHR on possibilities for future co-operation. Mr Mitchell welcomed the exchange of letters between Mr Strohal and Mr Buquicchio, which would help to expedite the drafting of opinions and, in principle, allow the OSCE/ODIHR representative to the Council and the Venice Commission to approve amendments discussed in meetings on behalf of the OSCE/ODIHR. He praised the level of co-operation with the Venice Commission in the electoral field. Mrs Severinsen hoped that this successful co-operation would continue.

4. Revised Election Evaluation Guide

At the June 2003 session, the Council for Democratic Elections and the Venice Commission adopted an Election Evaluation Guide, as well as questionnaires for observers ([CDL-AD\(2003\)010](#)). In June 2005, a joint election observation form for election observers by the Venice Commission and OSCE/ODIHR was adopted ([CDL-AD\(2005\)013](#)). It is used for election observation missions where the two organisations are represented. Since then, and taking account of the recent experience of the Parliamentary Assembly and the Congress of local and regional authorities of the Council of Europe in the field of election observation, a revised election evaluation guide has been drawn up on the basis of a contribution by Mr Casagrande ([CDL-EL\(2005\)025](#)).

The Council adopted the Revised Election Evaluation Guide.

5. Guidelines on referendums

Following the adoption at the October 2005 session of the comparative study on referendums in Europe ([CDL-AD\(2005\)034](#), [034add](#) and [034add2](#)), and the initiatives taken by the Parliamentary Assembly in this field, the Venice Commission had decided to draw up guidelines on referendums ([CDL-EL\(2006\)024](#)), on the basis of contributions by Messrs van Dijk, Luchaire and Malinverni. In accordance with the decision taken at the Council's last meeting these guidelines included, *mutatis mutandis*, the rules that applied to elections as defined in the Code of Good Practice in Electoral Matters ([CDL-EL\(2002\)023rev](#)). They also included many elements of the guidelines for constitutional referendums at national level adopted by the Venice Commission ([CDL-INF\(2001\)010](#)). The guidelines ([CDL-EL\(2006\)024](#)) were submitted to the Council with a view to adoption.

Mr Luchaire introduced the proposed guidelines, to which he added a number of clarifications:

- paragraph I.2.2: a neutral attitude by state authorities required the sole administrative authorities not to adopt a position on the question submitted to referendum;
- paragraph II.3.3.e: a new referendum need only be called if the irregularities might have influenced the result;
- paragraph III.6: if a popular initiative and a counter-proposal were both accepted, the two versions could only come into force if they were not incompatible.

Mr Gross said that a distinction had to be made between plebiscites initiated by the authorities, which might be open to manipulation, and referendums in the real sense of the term initiated by part of the electorate. He thought that quorum requirements should be avoided.

The Council then considered the written comments:

- it accepted the amendment to paragraph II.3.2.a.iv presented by the Directorate General of Political Affairs, which took account of Committee of Ministers Recommendation (2004) 11 on legal, operational and technical standards for e-voting;
- it accepted Mr Dutheillet de Lamothe's proposal that the words "It is preferable that equality be ensured between the proposal's supporters and opponents rather than between political parties" should appear in paragraph I.2.2.b as well as in paragraph I.2.2.d.

The Council then considered the points in square brackets in CDL-EL(2006)024, on which the working group had thought further discussion was necessary. Most of them were retained.

Mr van den Brande said that once the final version had been adopted by the Council for Democratic Elections and the Venice Commission, it would be submitted to the Parliamentary Assembly for approval.

The Council decided to adopt the guidelines at its next meeting. Members would be invited to submit any comments on and proposed amendments to the document, as amended at the current meeting, by 5 September at the latest. The secretariat would prepare a text showing the proposed amendments for the next meeting. The discussions would mainly focus on proposed amendments submitted in writing.

6. Synthesis study on Electoral law

Mr Krennerich, Venice Commission expert, has prepared a synthesis study the main objective of which is to identify the recurrent challenges and weaknesses associated with electoral law and electoral administration in Europe by referring to appropriate norms and good practices ([CDL-EL\(2006\)023](#)). This study is based on the Venice Commission's opinions (the majority jointly with OSCE/ODIHR) and the observation reports of the Parliamentary Assembly and the Congress of Local and Regional authorities of the Council of Europe, as well as OSCE/ODIHR. Particular emphasis had been given to documents dating from 2004 and 2005, although significant electoral events from previous years had also been taken into account. The Council was invited to take note of the synthesis study ([CDL-EL\(2006\)023](#)) with a view to its adoption.

A certain number of amendments were proposed by Ms Severinsen and adopted.

The Council adopted the study on electoral law and electoral administration in Europe (CDL-EL(2006)023) with some amendments.

7. Armenia

On 28 March 2006 the Armenian authorities submitted a request to the Venice Commission for an opinion on the draft amendments ([CDL-EL\(2006\)020](#)) to the Electoral Code of Armenia ([CDL-EL\(2006\)019](#)). The draft joint opinion by the Venice Commission and OSCE/ODIHR ([CDL-EL\(2006\)026](#)), drawn up on the basis of comments by Messrs Closa Montero, Krennerich and Pilgrim, was submitted to the Council for adoption. Owing to the urgency of this matter, in particular the AGO Group's visit to Armenia starting on 8 June, this document had already been sent to the Armenian authorities before the meeting of the Council for Democratic Elections.

Messrs Shakespeare and Gross presented some amendments to the text. The Council took note but indicated that these concerned issues not directly linked to the amendments as studied in the Commission's opinion. The Secretariat will inform the Armenian authorities on preoccupations concerning :

- the necessity to ensure that the ballot box seal number is registered by the Electoral Commission before the box is sealed and that the number is again recorded when the box is being opened for the counting;
- the amount of candidate deposits which should be reduced, at least in rural municipalities ;
- elections (including municipal) should be held in the whole country on the same day;
- during the counting, the chairperson of the polling station should have to show the ballot papers to the other polling station members as well as to the observers.

8. « The former Yugoslav Republic of Macedonia »

At its March 2006 Session the Council for Democratic Elections and the Venice Commission adopted the joint opinion by the Venice Commission and OSCE/ODIHR ([CDL-AD\(2006\)008](#)) on the draft electoral code of "The former Yugoslav Republic of Macedonia", drawn up on the basis of comments by Messrs Kask, Mifsud Bonnici and Finn. The revised code was adopted on 29 March 2006 (see document [CDL-EL\(2006\)021](#)), and a draft joint

opinion by the Venice Commission and OSCE/ODIHR on the modified code has been prepared on the basis of comments by the same rapporteurs ([CDL-EL\(2006\)027](#)). The Council was invited to adopt this draft opinion with a view to forwarding it to the authorities of the country concerned soon after the 5 July elections.

Mr Shakespeare proposed several amendments on behalf of the Congress of local and regional authorities of the Council of Europe.

The Council adopted the draft joint opinion by the Venice Commission and OSCE/ODIHR (CDL-AD(2006)027) on the draft electoral code of “The former Yugoslav Republic of Macedonia” with some amendments.

9. Future activities

Following a request from the Parliamentary Assembly of the Council of Europe, the Council will be invited at its next meeting to examine draft recommendations on the electoral law of Belarus.

The Council should also give an opinion, at the request of the Georgian authorities, on the draft joint opinion with OSCE/ODIHR on the current revision of the electoral code of Georgia.

The Venice Commission could participate in the following observation missions : parliamentary elections in “the former Yugoslav Republic of Macedonia” (5 July), the parliamentary and presidential elections in Bosnia and Herzegovina (1st October) and the parliamentary elections in Montenegro also at the beginning of October. It is recalled that the Commission participated in the observation of the parliamentary elections in Ukraine on 26 March 2006.

10. Date of the next meeting

It is proposed to hold the next meeting in the morning of Thursday, 12 October at 9h45.

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

Mrs Mirjana LAZAROVA TRAJKOVSKA, Judge, Constitutional Court, Skopje (**Vice-présidente/Vice-Chair**)

M. François LUCHAIRE, Ancien Magistrat du Tribunal constitutionnel d'Andorre, Paris

Mr Ugo MIFSUD-BONNICI, President Emeritus, La Valletta

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 (**Ancien Vice-président/Former Vice-Chair**)

Membres suppléants / Substitute Members

Mr Ángel SÁNCHEZ NAVARRO, Professor of Constitutional Law, Complutense University, Madrid

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

Secrétariat / Secretariat

M. Gianni BUQUICCHIO

M. Thomas MARKERT

M. Pierre GARRONE

ASSEMBLEE PARLEMENTAIRE / PARLIAMENTARY ASSEMBLYMembres / Members

M. Luc van den BRANDE, Bruxelles, Commission de suivi (**Président/Chair**)

Mme Josette DURRIEU, Paris, Commission politique

M. Andreas GROSS, Zurich, Commission juridique

Membres suppléants / Substitute Members

Mme Merixtell BATET, Madrid, Commission juridique (excusée/apologised)

Mme Hanne SEVERINSEN, Copenhagen, Commission politique

M. Emanuelis ZINGERIS, Vilnius, Commission de suivi (excusé/apologised)

Secrétariat / Secretariat

Mr Vladimir DRONOV

Mrs Bonnie THEOPHILOVA

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, Président de la Chambre des pouvoirs locaux/President of the Chamber of Local Authorities (excusé/apologised)

M. David SHAKESPEARE, Aylesbury, Chambre des régions

Membres suppléants/Substitute Members

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

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

Secrétariat / Secretariat

Ms Pilar MORALES

PROJET INTÉGRÉ / INTEGRATED PROJECT

M. Michael REMMERT (excusé/apologised)

OBSERVATEURS / OBSERVERS

OSCE

BIDDH/ODIHR

Mr Gerald MITCHELL, Head of the Election Department, Warsaw

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

HIGH COMMISSIONER FOR NATIONAL MINORITIES / HAUT-COMMISSAIRE POUR LES MINORITES NATIONALES

Mr Krzysztof DRZEWICKI, Senior Legal Adviser, The Hague

Mr Vincent de GRAAF, The Hague

ASSEMBLEE 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)