



Strasbourg, 23 November 2009

CDL-EL-PV(2009)003

Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**30th MEETING
OF THE COUNCIL FOR DEMOCRATIC ELECTIONS**

Venice, 8 October 2009 at 10 a.m.

MEETING REPORT

1. Adoption of the agenda

The Council adopted the agenda as it appears in document CDL-EL-OJ (2009)003ann.

2. International status of election observers

The Secretariat reminded the Council that at previous meetings the Council for Democratic Elections and the Venice Commission had adopted two documents on this question, following a request from the Parliamentary Assembly of the Council of Europe, on the basis of comments by Messrs Sanchez Navarro, Musin, Masters and Pohler. The first document contained an inventory of a situation in domestic and international law in Europe ([CDL-AD\(2009\)020rev](#)). The second document summarised the recommendations emanating from election observation missions ([CDL-AD\(2009\)026](#)).

The Council examined the third document containing the draft guidelines. This document had been submitted to the international organisations concerned for consultation and their comments were taken into account ([CDL-EL\(2009\)022](#)).

The Council took note of the provisional version of the document and asked the Secretariat to complete the text with references to the bodies and institutions to which the guidelines are addressed. The finalised version of the text would be submitted to the Council for Democratic Elections and the Venice Commission in December.

3. Cancellation of election results

Following the Commission's decision to study the question of the cancellation of election results, a questionnaire was drawn up ([CDL-EL\(2007\)043rev](#)) and a UniDem Seminar organised in Malta on 14-15 November 2008. On the basis of the replies to the questionnaire ([CDL-EL\(2009\)019](#)), Mr Kask prepared a summary report ([CDL-EL\(2009\)020](#)) which is submitted to the Council for consideration.

Mr Kask presented the main conclusions of the text. The Council was informed that the study was based on recent elections results in a number of countries, that the information on sanctions (other than cancellation) was not part of the study and that the practice of different States was very diverse as to the pre-conditions for cancellation of election results and as to bodies responsible for cancellation decisions. Mr Kask proposed to complete the study by a third part on case-law.

Some of the members of the Council were of the opinion that the text should include concrete recommendations to the States.

The Council invited Mr Kask to add a third part on case law to the study and asked the Secretariat to send the text to members of the Council and the Venice Commission for comments. The revised text would be discussed during the meeting of the Council in December 2009.

4. Evaluation of the electoral process

Mr Gross informed the Council on the progress of work on the report on the assessing of the quality of elections. The national practice was not uniform; however, a certain number of recommendations were possible. Mr Gross was of the opinion that the report should give a number of basic definitions and recommendations which would not be focussed only on Election Day but would deal with the whole process. He said that the report would try to analyse the pre-conditions for organising free and fair elections, possible measures for building confidence of voters in the system and observation of elections by national observers.

The Council took note of the information provided by Mr Gross and invited its members to send their comments on the draft text.

5. Voter registration

The Council took note of the observations by Mr Masters on the draft OSCE-ODIHR Handbook for monitoring Voter Registration ([CDL-EL\(2009\)015](#) and [CDL-EL\(2009\)021](#)).

6. Serbia

Following a request from the Minister of Public Administration and Local Self-Government of Serbia, the Council examined, with a view to adoption, the draft joint opinion ([CDL-EL\(2009\)013](#)) by the Venice Commission and OSCE-ODIHR on the following Serbian draft laws in the electoral field: draft Law on the State Election Commission ([CDL-EL\(2009\)010](#)), draft Law on the Unified Register of Voters ([CDL-EL\(2009\)011](#)) and draft Law on the Election of Councillors ([CDL-EL\(2009\)012](#)). The opinion had been drawn up on the basis of comments by Mr Hjörtur Torfason and Mr Jessie Pilgrim, OSCE-ODIHR expert.

Mr Torfason presented the text. He informed the Council that the texts examined by Mr Pilgrim and himself did not present any major shortcomings, however, certain provisions could be still improved. The specific areas where some changes would be welcomed concerned some provisions on the allocation of mandates and the operation of electoral commissions.

Mr Olszewski made a number of technical remarks which were accepted by the Council.

The Council adopted the joint opinion ([CDL-EL\(2009\)013](#)) and instructed the Secretariat to adjust the text before its submission to the Plenary on 10 October 2009.

7. Ukraine

Following a request from the Acting Minister of Foreign Affairs of Ukraine, the Council examined, with a view to adoption, the draft joint opinion ([CDL-EL\(2009\)016](#)) by the Venice Commission and OSCE-ODIHR on the Law amending certain legislative acts on elections of the President of Ukraine ([CDL-EL\(2009\)014](#), cf. [CDL-EL\(2009\)023](#)). This document was drawn up on the basis of comments by Ms Nussberger and Mr Pilgrim.

The Secretariat presented the opinion. The Council was informed that among other issues the main areas of concern in the law were the unreasonable restrictions on the right of candidacy, the re-introduction of the possibility to add voters to the election lists on the Election Day and the limitations of the possibilities of the Central Election Commission to correct mistakes of lower level election commissions. The law also drastically curtailed the possibilities for court control of the electoral process.

The Council adopted the joint opinion ([CDL-EL\(2009\)016](#)) by the Venice Commission and OSCE-ODIHR on the Law amending certain legislative acts on elections of the President of Ukraine.

8. Other developments and future activities

The Secretariat informed the Council that at its meeting on 7 September 2009 the Bureau of the Parliamentary Assembly had sent the *Code of good practice in the field of political parties* to the Political Affairs Committee for report (see document [CDL-AD\(2009\)021](#)).

The Secretariat also informed the Council on the first meeting of the Committee of experts on the participation of people with disabilities in political and public life which had taken place in Strasbourg on 7-9 September 2009. The Committee highly appreciated the work of the Commission and expressed its intention to seek an opinion of the Venice Commission on the draft recommendation on the participation of persons with disabilities in political and public life.

Following the adoption of the report on thresholds and other features of the electoral system which barred parties from access to Parliament ([CDL-AD\(2008\)037](#)) by the Commission, a second report aimed at a solid and in-depth evaluation of the prevailing situation across the different member States should be submitted to the December meeting of the Council.

The Secretariat informed the Council on work concerning the state of human rights and democracy in Europe (follow-up to Parliamentary Assembly Recommendation [1791\(2007\)](#)) on the issues of good governance and procedures for amending Constitutions. These issues would be dealt by the Sub-Commission on democratic institutions on 8 October in the afternoon.

The Council was also informed about the request of the authorities of Montenegro to prepare an opinion on the changes to the electoral legislation. The Venice Commission would work on this issue in co-operation with the OSCE/ODIHR.

Mrs Durrieu proposed to conduct a study on the electoral rights of citizens living abroad and to examine the issue of different procedures for elections of Heads of State by national parliaments.

9. Co-operation with OSCE/ODIHR

An exchange of views took place with the representatives of OSCE/ODIHR on the possibilities of future co-operation, notably in Georgia and Montenegro.

10. Date of the next meeting

The Council decided to hold the next meeting on Thursday, 10 December 2009 at 10 a.m.

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS**COMMISSION DE VENISE / VENICE COMMISSION**Membres du CED / Members of the CDE

M. Dominique CHAGNOLLAUD, Membre du Tribunal Suprême, Université de droit, d'économie et de sciences sociales, Paris (excusé/apologised)

Mr Ugo MIFSUD BONNICI, President Emeritus, Valletta (**1^{er} Vice-Président/1st Vice-Chair**)

Mr Peter PACZOLAY, President of the Constitutional Court, Budapest

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

Membres suppléants du CED / Substitute Members of the CDE

M. Jean-Claude COLLIARD, Président de l'Université Paris 1 Panthéon-Sorbonne (excusé/apologised).

Mr Srdjan DARMANOVIC, Professor, University of Montenegro, Podgorica

Mr Klemen JAKLIC, Professor, Constitutional Law, Ljubljana, Slovenia (excusé/apologised)

Mr Oliver KASK, Judge at the Court of Appeal, Tallinn

Secrétariat / Secretariat

M. Thomas MARKERT

M. Pierre GARRONE

M. Serguei KOUZNETSOV

ASSEMBLÉE PARLEMENTAIRE / PARLIAMENTARY ASSEMBLYMembres / Members

M. Luc VAN DEN BRANDE, Bruxelles, Commission de suivi (excusé/apologised)

Mme Josette DURRIEU, Paris, Commission politique

M. Andreas GROSS, Zurich, Commission juridique (**2^e Vice-Président/2nd Vice-Chair**)

Secrétariat / Secretariat

M. Vladimir DRONOV

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

M. Ian MICALLEF, Malte, Président de la Chambre des pouvoirs locaux/President of the Chamber of Local Authorities (excusé/apologised)

Mr Keith WHITMORE, Manchester, Chamber of Regions (excusé/apologised)

Membre suppléant / Substitute Member

M. Jean-Claude FRECON, Pouilly-les-Fleurs, France, Chambre des pouvoirs locaux (excusé/apologised)

Secrétariat / Secretariat

(excusé/apologised)

OBSERVATEURS / OBSERVERS

OSCE

BIDDH/ODIHR

Mr Konrad OLSZEWSKI, Deputy Head of the Election Department, Warsaw

EUROPEAN COMMISSION / COMMISSION EUROPEENNE

Mme Véronique ARNAULT, Directrice des Relations multilatérales et Droits de l'Homme
(excusée/apologised)

EUROPEAN PARLIAMENT/ PARLEMENT EUROPEEN

M. Pietro DUCCI, Head of the Election Observation Unit

**ASSOCIATION DES ADMINISTRATEURS D'ELECTIONS D'EUROPE /
ASSOCIATION OF EUROPEAN ELECTION OFFICIALS (ACEEEO)**

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