



Strasbourg, 25 June 2010

CDL-EL-PV(2010)002\*

Or. fr.

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

**33<sup>rd</sup> MEETING OF THE  
COUNCIL FOR DEMOCRATIC ELECTIONS**

**Venice, 3 June 2010 at 9.30 a.m.**

**MEETING REPORT**

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*\*This document has been classified restricted on the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

## **1. Adoption of the agenda**

The Council adopted the agenda as it appears in document CDL-EL-OJ(2010)002ann.

## **2. Communication by the Secretariat**

The Secretariat gave the floor to Ms Alanis Figueroa, Magistrate, President of the Federal Electoral Tribunal of Mexico, and new member of the Council for Democratic Elections. Ms Alanis Figueroa thanked the Venice Commission for the invitation and welcomed the new co-operation between the Commission and Mexico in particular in the electoral field.

The Secretariat informed the Council on the following items:

### **- Armenia :**

In the framework of an opinion adopted by the Venice Commission in 2008 on the issue of the immunity of persons involved in the electoral process ([CDL-AD\(2008\)024](#)), the Commission underlined that such immunity should be maintained and guaranteed for certain occupations or functions. However, on 20 May last the National Assembly of Armenia adopted a law ending immunity for certain functions.

The Secretariat asked the Council what steps it wished to take, owing to the fact that this law is likely to contradict the Commission's opinion. Following discussion, the Council decided to request the Secretariat to obtain further information on this reform before envisaging a more concrete follow-up to the opinion, particularly in the case of a decrease in immunity for persons involved in the electoral process.

### **- Azerbaijan**

The Council of Europe has adopted an action plan for pre-electoral assistance in Azerbaijan. The legislative elections will take place in November 2010. In the framework of the Action Plan the Venice Commission has been invited to organise several activities. Following contacts with the authorities in April 2010, it was agreed:

- to organise an activity on electoral complaints with the Central Electoral Commission (CEC) in July;
- to assist the CEC in the preparation of the candidates' guide (in June for distribution in July);
- to organise a training workshop for the territorial electoral commissions in September;
- to co-organise with the Supreme Court a training workshop for judges and prosecutors on disputes, in September;
- to co-organise between now and September, four regional seminars on freedom of assembly and electoral campaign (in co-operation with the Presidential Administration).

### **- Georgia**

At the request of the Central Election Commission, the Venice Commission sent an independent expert to Tbilisi from 15 to 29 April 2010 to assist the CEC and to monitor its activities in the framework of the local elections which took place on 30 May 2010.

In his report the expert noted the CEC's efforts to increase the transparency of the electoral process as well as in its co-operation with political parties. In addition, the expert noted that the electoral legislation should be improved by the drawing up of a new electoral code. He emphasised the necessity to adopt a new, more appropriate electoral system which will enable the current imbalance in the division of constituencies and the unequal distribution of votes to be corrected. He also recommended revising the system of collecting signatures for the registration of candidates and revising the provisions on voter registration.

The representative of OSCE/ODIHR also pointed out that, if indeed it is necessary to underline improvements, especially regarding the electoral administration's work, ODIHR, in its report on the observation of the 30 May 2010 local elections, raised several important issues including the electoral campaign, the use of administrative resources and persistent problems in the electoral code (particularly concerning the right to vote and rights of candidates).

### **3. Evaluation of the electoral process**

At the October 2009 meeting, Mr Gross presented a draft report on the time line and an inventory of political criteria for assessing an election. This document was then submitted to the members of the Council for comment. Mr Gross presented a revised version of his report ([CDL-EL\(2010\)021](#)), stating that he would like more time to complete it.

**The Council took note of the report on the evaluation of the electoral process ([CDL-EL\(2010\)021](#)) and requested the rapporteur to complete his report in particular by drafting an introduction.**

### **4. Out-of-country Voting**

The Secretariat informed the Council on progress of work on out-of-country voting. The Council took note of the document on the legal provisions on this subject ([CDL-EL\(2010\)013](#)), as well as the summary table ([CDL-EL\(2010\)014](#)).

It was pointed out that the Secretariat prepared these two documents (legal provisions and summary tables) with a view to a future study on out-of-country voting, in particular following the Parliamentary Assembly's interest in this question. Members' corrections have been incorporated into these documents.

Ms Durrieu volunteered to work as rapporteur on this study.

**The Council took note of the legal provisions ([CDL-EL\(2010\)013](#)), and the summary table ([CDL-EL\(2010\)014](#)) on out-of-country voting, as revised, and agreed to draft a comparative study on this question.**

### **5. Equal access to local and regional elections**

At its 17<sup>th</sup> plenary session (13-15 October 2009), the Congress of Local and Regional Authorities of the Council of Europe adopted Recommendation 273(2009) on equal access to local and regional elections.

The Committee of Ministers forwarded this recommendation to the Venice Commission for information and possible comments. The draft reply ([CDL-EL\(2010\)020](#)) was submitted to the Council for adoption.

It was pointed that in this document the Venice Commission endeavours to draw the Committee of Ministers' attention to the documents it has developed in line with the Congress' recommendation, by referring to the various points contained in the recommendation.

**The Council adopted the draft reply to the Committee of Ministers concerning Recommendation 273(2009) of the Congress of Local and Regional Authorities of the Council of Europe ([CDL-AD\(2010\)021](#)).**

## **6. Belarus**

Following a request from the Political Affairs Committee of the Parliamentary Assembly, a draft joint opinion by the Venice Commission and OSCE/ODIHR on the recent amendments to the Electoral Code of Belarus was prepared on the basis of comments by Messrs Kask (Venice Commission member, Estonia), Middleton (OSCE/ODIHR expert) and Vulchanov (Venice Commission expert) ([CDL-EL\(2010\)019](#), see [CDL-EL\(2009\)001](#) and [CDL-EL\(2010\)018](#)). This opinion was submitted to the Council for adoption.

**The Council adopted the joint opinion on the recent amendments to the Electoral Code of Belarus ([CDL-AD\(2010\)012](#)).**

## **7. Georgia**

Following a request from the Georgian authorities, a draft joint opinion by the Venice Commission and OSCE/ODIHR was prepared on the Electoral Code of Georgia as amended to 28 December 2009 ([CDL-EL\(2010\)015](#), see documents [CDL-EL\(2010\)009](#) and [CDL-EL\(2010\)008](#)), on the basis of comments by Messrs Jaklic (Venice Commission member, Slovenia), Masters (Venice Commission expert) and Pilgrim (OSCE/ODIHR expert). This opinion was submitted to the Council for adoption.

The draft opinion presented to the Council contains proposals for amendment made at a meeting held in Strasbourg on 29 April 2010 at the request of the Georgian parliament. Following this meeting the representatives of the Parliament clarified certain points in the draft opinion.

Thus, three amendments were discussed and adopted. The first concerns paragraph 25 of the draft opinion. In addition, following clarification by the Georgian parliament, paragraphs 28 and 55 of the draft opinion were deleted.

**The Council adopted the joint opinion on the Electoral Code of Georgia with three amendments ([CDL-AD\(2010\)013](#)).**

## **8. Moldova**

Following a request from Mr Ghimpu, Acting President and Speaker of the Parliament of Moldova, a draft joint opinion by the Venice Commission and OSCE/ODIHR was prepared on the draft amendments ([CDL-EL\(2010\)012](#)) to the Electoral Code of Moldova ([CDL\(2008\)082](#)) on the basis of comments by Messrs Bisson (OSCE/ODIHR expert) and Vollan (Venice Commission expert). The draft has already been forwarded to the authorities as parliamentary debates were to be held on this question and it was considered to be urgent. The opinion was submitted to the Council for adoption.

The opinion was presented and, following comments in particular by the Representation of the European Union in Moldova, four amendments were proposed to paragraphs 9, 29, 73 and 74. The amendments concern the reliability of electoral lists (paragraph 9), out-of-country voting (paragraph 29) and referenda (paragraphs 73 and 74).

**The Council adopted the joint opinion on the Electoral Code of Moldova with four amendments ([CDL-AD\(2010\)014](#)).**

## **9. Montenegro**

In the framework of adapting laws to the new Constitution, the Parliament of Montenegro prepared a draft law amending the law on the election of councillors and members of Parliament, which concerns in particular the protection of minorities ([CDL-EL\(2010\)010](#) and [CDL-EL\(2010\)011](#)). The Parliament has requested an opinion on this draft from the Venice Commission. The Council was invited to adopt the draft opinion, drawn up jointly with OSCE/ODIHR ([CDL\(2010\)032](#)).

OSCE/ODIHR proposed several amendments. The majority of the 12 amendments are stylistic or clarifications in the draft opinion. The substantive amendments concern paragraphs 30 and 32 (deleted), inserting a new paragraph under "Right to vote" before paragraph 35 which clarifies the various concepts of citizenship in the Montenegrin law and a substantive precision provided in paragraph 41.

**The Council adopted the joint opinion on the draft law amending the law on the election of councillors and members of Parliament of Montenegro with some amendments ([CDL-AD\(2010\)023](#)).**

## **10. Ukraine**

The Secretariat informed the Council of progress of co-operation with Ukraine in the preparation of a unified electoral code and in particular the meeting of the Rada (Ukrainian parliament) on the draft electoral code which took place in Kyiv on 28 April 2010 and in which Venice Commission representatives participated. The working group on the code may invite the Commission to participate in working meetings with a view to finalising the draft code. The authorities have indicated their intention to request an opinion from the Venice Commission on this draft. The Commission may be invited to participate in activities organised by other Council of Europe Departments, in particular the Congress of Local and Regional Authorities before the local elections (scheduled for later this year). The position of the new Ukrainian Government will determine whether the proposed activities are to be carried out.

## **11. Other developments and future activities**

A draft report on the figure based management of an election fraud should be submitted to the Council at one of its forthcoming meetings. Mr Vulchanov will be rapporteur and will endeavour to answer the following question: Can we detect potential electoral frauds by statistical methods? The secretariat is looking for other rapporteurs for this report.

The Secretariat informed the Council about the participation of the Venice Commission in the work of the Committee of Experts on the participation of people with disabilities in political and public life (CAHPAH-PPL). A representative of the Secretariat participated in the third meeting of the Committee of Experts and presented a draft interpretative declaration from the code of good practice in electoral matters on the participation of people with disabilities in political and public life. The Secretariat indicated that the Venice Commission has been invited to provide comments and possible amendments to this draft Declaration and asked for volunteers to work on this issue. Mr Mifsud Bonnici stated his interest in working on this question.

The Secretariat stated that, at the request of the Committee of Ministers of the Council of Europe, the Venice Commission has been invited to make comments by 15 September 2010 following a report and recommendation adopted by the Parliamentary Assembly on "Lobbying in a democratic society". Members of the Council are invited to express their interest in working on this issue.

Finally, the Secretariat stated that following the report of the OSCE/ODIHR observation mission on the Norwegian parliamentary elections on 14 September 2010, Norway has requested an opinion on its electoral law from both institutions.

## **12. Co-operation with OSCE/ODIHR**

The President welcomed the excellent co-operation with OSCE/ODIHR in the context of joint opinions. He extended his heartfelt thanks to Mr Konrad Olszewski who will shortly leave OSCE/ODIHR and emphasised the success of his joint work with the Venice Commission.

## **13. Date of the next meeting**

The next meeting will take place on Thursday, 14 October 2010 at 10.00 a.m.

**LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS**

**COMMISSION DE VENISE / VENICE COMMISSION**

**Membres du Conseil des Elections démocratiques (CED) / Members of the Council for Democratic Elections (CDE)**

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

Mr Ugo MIFSUD BONNICI, President Emeritus, Valletta

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**

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

Ms Maria del Carmen ALANIS FIGUEROA, Chief Magistrate, President, Federal Electoral Tribunal, Mexico

Mr Hector DAVALOS MARTINEZ, Magistrate, Electoral Tribunal of the Federal Judiciary, Mexico

Mr Manuel GONZALEZ OROPEZA, Magistrate, Federal Electoral Tribunal, Mexico

**Secrétariat / Secretariat**

M. Thomas MARKERT

M. Gaël MARTIN-MICALLEF

**ASSEMBLEE PARLEMENTAIRE / PARLIAMENTARY ASSEMBLY**

**Membres / Members**

Mme Josette DURRIEU, Paris, Commission politique

M. Andreas GROSS, Zurich, Commission juridique (**Président/Chair**)

M. David WILSHIRE, Royaume-Uni, Commission de suivi (excusé/apologised)

**Secrétariat / Secretariat**

Mr Vladimir DRONOV

**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)

Mr Keith WHITMORE, Manchester, Chambre des régions (excusé/apologised)

**OBSERVATEURS / OBSERVERS**

**OSCE**

**BIDDH/ODIHR**

Mr Nicolas KACZOROWSKI, Head of the Election Department, Warsaw  
Mr Konrad OLSZEWSKI, Senior Election Expert, Warsaw

**UNION EUROPEENNE / EUROPEAN UNION**

**PARLEMENT EUROPEEN / EUROPEAN PARLIAMENT**

(excusé/apologised)

**COMITE DES REGIONS / COMMITTEE OF THE REGIONS**

M. Luc VAN DEN BRANDE, Président du CIVEX, Bruxelles (excusé/apologised)

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

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