



Strasbourg, 3 April 2012

CDL-EL-PV(2012)001*
Or. Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

40th MEETING
OF THE COUNCIL FOR DEMOCRATIC ELECTIONS

Venice, 15 March 2012 at 10 a.m.

MEETING REPORT

**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 its agenda as it appears in the document CDL-EL-OJ(2012)001.

2. Chair and Vice Chair

The Council elected Mr Gross as Chair of the Council for Democratic Elections.

At its 89th Plenary Session (December 2011), the Venice Commission elected Mr Jean-Claude Colliard as Vice Chair of the Council for Democratic Elections.

3. Communication by the Secretariat

The Secretariat informed the Council on:

- Follow-up to the joint opinion by the Venice Commission and OSCE/ODIHR on the draft election code of Georgia (CDL-AD(2011)043). The version adopted by the Georgian Parliament on 27 December 2011 showed some improvement, in particular concerning complaints and appeals and, to a certain extent, the reduction of the residency requirement for running for parliamentary elections; the introduction of the possibility to film and to take photographs of the electoral process is less positive; the main problem, the very unequal representation of voters of the various constituencies, remains unaddressed.
- Follow-up to the joint opinion by the Venice Commission and the OSCE/ODIHR on the draft law on amendments and additions to the organic law of Georgia on political unions of citizens (CDL-AD(2011)044rev). The revised law, adopted on 28 December 2011, includes numerous amendments which had not been submitted to the Venice Commission. Therefore, the Venice Commission did not provide an opinion on the revised law nor did it approve it. Substantial amendments, which add restrictions to the financing of political parties, have been introduced into the final version of the text. In particular, they extend the scope of the law to people with links to political parties. Discussions on the interpretation of these provisions are taking place with NGOs and amendments could be made to the text in response to certain concerns.
- Assistance to the Parliamentary Assembly mission observing the parliamentary elections in Kazakhstan (15 January 2012). These elections were not in conformity with international standards, owing to the absence of a real opposition in the electoral process and numerous restrictions to freedom of association, of expression and of assembly. The implementation of the Joint Programme of the Venice Commission and the European Commission on the electoral law and practice in Kazakhstan was discussed in parallel to this activity.
- The Venice Commission's participation in a meeting organised by the Council of Europe in the framework of the Eastern Partnership programme, financed by the European Commission, concerning the participation of women in public life (Tbilisi, 7-8 February 2012): a Venice Commission expert intervened and organised working groups with case studies in support. This method, as well as its content, was very much appreciated.
- The Round Table on Electoral Disputes, jointly organised by the Venice Commission and the Judicial School of Armenia, for judges from administrative courts (Yerevan, 29 February-1 March 2012). Two Venice Commission experts took part in this event. They intervened and presented case studies.

- Assistance to the Parliamentary Assembly mission observing the Presidential elections in the Russian Federation (4 March 2012). Mr Gross underlined the very good co-operation between the Parliamentary Assembly and the Venice Commission. Ms Durrieu and Mr Paczolay also spoke. Although there were fewer irregularities than in the December 2011 legislative elections, and even without taking the pre-electoral period into account, a certain number of problems persisted on election day, in particular concerning the length of time between closing the vote and starting the counting, which led to some confusion.
- Participation in a meeting on the legal framework for elections in view of the 2012 legislative elections in Ukraine, at the invitation of the International Foundation for Electoral Systems (IFES) (Kyiv, 14 March 2012). See also item 7 below for activities with Ukraine.

4. Measures to improve the democratic character of elections in the member States of the Council of Europe

Following the request from the Political Affairs Committee of the Parliamentary Assembly Mr Colliard prepared a written contribution from the Venice Commission on measures to improve the democratic character of elections in the member States of the Council of Europe.

The Council adopted the report on measures to improve the democratic character of elections in the member States of the Council of Europe, with some amendments (CDL-AD(2012)005).

The OSCE/ODIHR will make a contribution to the work of the Parliamentary Assembly on this issue.

5. Russian Federation

The Monitoring Committee of the Parliamentary Assembly requested the Venice Commission's opinion on:

- the Federal Law on Political Parties of the Russian Federation
- the Federal Law on Election of the Deputies of the State Duma of the Russian Federation

In the framework of the preparation of these opinions, a Venice Commission delegation travelled to Moscow on 16-17 February 2012 and met the different authorities concerned, as well as members of the civil society, political parties not represented in the Duma and associations which attempted, without success, to register as political parties.

Mr Hamilton presented the draft opinion on the Federal Law on Political Parties of the Russian Federation. The requirements of the law are so detailed and cumbersome that a malicious administration could prevent registration. An important problem is linked to the requirement for a party to have at least 40,000 members (previously 50,000) and the necessity to have regional branches in more than half of the subjects of the Federation. A draft revised law has been submitted to the Duma and adopted in first reading. It would be pertinent to follow developments on this issue.

The Council adopted the opinion on the Federal Law on Political Parties of the Russian Federation, with some amendments (CDL-AD(2012)003).

Concerning the Federal Law on Election of the Deputies of the State Duma of the Russian Federation, Ms Biglino indicated that the main problem was the discrepancy between the text of the law and its implementation. Legislation should however be revised on a number of points. The most important ones are the composition of election commissions - which does not ensure their independence and impartiality - and the complaints and appeals system. More generally, the legislative framework should be simplified.

The Council adopted the opinion on the Federal Law on Election of the Deputies of the State Duma of the Russian Federation, with some amendments (CDL-AD(2012)002).

6. Co-operation with Arab countries

The Council was informed on:

- The Venice Commission's participation in a Parliamentary Assembly post electoral visit to Tunisia (Tunis, 16-17 January 2012); on this occasion the Commission renewed its contacts with the Tunisian authorities, in particular the National Constituent Assembly; the Commission hopes to be involved in drafting the New Constitution. Mr Gross pointed out that Tunisia obtain Partner for Democracy status (new status at the Parliamentary Assembly).
- The Venice Commission's participation in a Round Table on electoral disputes on the preliminary results of the 23 October 2011 elections of the National Constituent Assembly of Tunisia (Tunis, 17-18 January 2012); a judge specialised in electoral disputes participated on behalf of the Venice Commission at a Round Table on the preliminary results of the 23 October elections of the National Constituent Assembly.
- The participation of the Secretary of the Commission in an expert visit to Jordan during which the question of the electoral legislation of that country was raised (Amman, 9 February 2012); far reaching constitutional reform was adopted in 2011 which envisaged the organisation of the elections by an independent commission instead of the Ministry of the Interior; although the authorities did not state that they will request an opinion, they are ready to co-operate with the Venice Commission.

The Commission is ready to work with the Egyptian authorities.

7. Future activities

Following a request from the Hungarian authorities, a joint opinion by the Venice Commission and the OSCE/ODIHR will be prepared on the law on the election of members of Parliament, with a view to its adoption at the June 2012 Session.

The Commission is organising with the Verkhovna Rada of Ukraine a Round Table on the implementation of the new law on parliamentary elections on 19 and 20 March in Kiev. This activity will deal with the creation of election commissions, constituencies, the electoral campaign and electoral disputes.

On 26 and 27 March 2012, the Commission is organising, in co-operation with the Central Election Commission of Ukraine, a seminar on electoral lists and voters' registers. This activity is part of the Council of Europe Platform of the Eastern Partnership of the European Union, concerning Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.

The 9th Conference of European Electoral Management Bodies will take place in Tallinn on 4-5 June 2012. This Conference is organised jointly with the Central Electoral Commission of Estonia on the theme "Elections and Innovative Solutions".

A Conference on "The European Electoral Heritage - ten years of the Code of Good Practice in Electoral Matters" is scheduled to take place in Tirana on 2-3 July 2012 in the framework of the Albanian Chairmanship of the Committee of Ministers.

The studies on the use of administrative resources and on the limitation of mandates (limitation of consecutive terms of office and limitation of the possibility of simultaneously holding office) should be submitted to the Council in October or December 2012.

The Congress of Local and Regional Authorities of the Council of Europe has requested a study on the criteria for standing for local and regional elections. The study will be undertaken as soon as material on national legislations is available from the Congress.

The Council took note of the proposal to carry out a study on the relationship between elections and money.

The Secretariat will prepare a document containing an inventory of all texts of a general nature adopted by the Venice Commission in the electoral field.

8. Date of the next meeting

It is proposed to hold the next meeting on Thursday, 14 June 2012 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 (**Vice-Président/Vice-Chair**) (excusé/apologised)

Mr Oliver KASK (excusé/apologised)

Mr Ugo MIFSUD BONNICI

Mr Peter PACZOLAY

Membres suppléants du CED / Substitute Members of the CDE

Ms Maria del Carmen ALANIS FIGUEROA (excusée/apologised)

Ms Paloma BIGLINO CAMPOS

Mr Paul CRAIG (excusé/apologised)

Mr Srdjan DARMANOVIC

Autres membres ayant participé à la réunion / Other members participated at the meeting

M. Gianni BUQUICCHIO (Président/President)

Mr Nicolae ESANU

Ms Gret HALLER

Mr James HAMILTON

Secrétariat / Secretariat

M. Thomas MARKERT

M. Pierre GARRONE

Ms Amaya ÚBEDA DE TORRES

ASSEMBLEE PARLEMENTAIRE / PARLIAMENTARY ASSEMBLY**Membres / Members**

Mme Josette DURRIEU, Commission politique/Political Commission

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

Ms Karin S. WOLDSETH, Commission de suivi/Monitoring Commission
(excusée/apologised)

Membre suppléant / Substitute Member

Ms Marietta de POURBAIX-LUNDIN, Commission juridique/Legal Commission
(excusée/apologised)

Secrétariat / Secretariat

Mme Agnieszka NACHILO

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

Mr Lars O. MOLIN, Chambre des pouvoirs locaux (excusé/apologised)

Ms Gudrun MOSLER-TÖRNSTRÖM, Chambre des régions (excusée/apologised)

Membres suppléants / Substitute Members

Mr Nigel MERMAGEN, Chambre des pouvoirs locaux (excusé/apologised)

Ms Valentina ROSSI, Chambre des régions (excusée/apologised)

Secrétariat / Secretariat

Ms Renate ZIKMUND (excusée/apologised)

OBSERVATEURS / OBSERVERS

OSCE

BIDDH/ODIHR

Ms Beata MARTIN-ROZUMILOWICZ (excusée/apologised)

Ms Nicola SCHMIDT

UNION EUROPEENNE / EUROPEAN UNION

COMITE DES REGIONS / COMMITTEE OF THE REGIONS

M. Luc VAN DEN BRANDE (excusé/apologised)