



Strasbourg, 26 June 2012

**CDL-EL-PV(2012)002\***  
Or. Fr.

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

**41<sup>st</sup> MEETING**  
**OF THE COUNCIL FOR DEMOCRATIC ELECTIONS**

**Venice, 14 June 2012 at 10 a.m.**

**MEETING REPORT**

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

The Council adopted its agenda as it appears in the document CDL-EL-OJ(2012)002

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

The Secretariat informed the Council on:

- the conclusions of the Round Table on the implementation of the new law on Parliamentary Elections of Ukraine (19-20 March 2012, Kyiv). This event dealt with the creation of electoral commissions, constituencies, the electoral campaign and electoral disputes. It was organised in co-operation with the Verkhovna Rada (Parliament) of Ukraine and the Central Electoral Commission;
- the conclusions of the Seminar on electoral lists and voters' registers, organised on 26 and 27 March 2012 in Kyiv by the Commission in co-operation with the Electoral Commission of Ukraine. This activity falls in the framework of the European Union Eastern Partnership programme, which concerns Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. The participants discussed the possibility of new technologies to keep electoral lists up-to-date. The Central Electoral Commission of Ukraine shared its experiences in the field of creation and maintaining an electronic register of voters;
- assistance to the Parliamentary Assembly mission observing the presidential, parliamentary and local elections in Serbia (6 May 2012). Venice Commission representatives were invited to assist the delegation as electoral experts. The observers did not identify any major incident and underlined that the vote was in general well organised. However, they did identify several problems: the polling stations were not well adapted to the number of voters, which led to overcrowding in some polling stations; the electoral lists, drawn up on the basis of the new electoral registers, were not printed out in alphabetical order; the Venice Commission's team found several instances of family voting in localities with Albanian minorities; finally, it was observed that in several polling stations the staff lacked appropriate training;
- assistance to the Parliamentary Assembly mission observing the parliamentary elections in Armenia (6 May 2012). The electoral process took place in the framework of a calm and competitive campaign. However, organisational problems, undue interference in the process and cases of violations and intimidation were observed in a certain number of polling stations. The Venice Commission delegation prepared a legal memorandum for the attention of the Parliamentary Assembly delegation; the delegation also observed several polling stations;
- the Round Table on Electoral Disputes held in Bishkek on 29 May 2012. The Commission had adopted an opinion on the electoral legislation of Kyrgyzstan in June 2011. In 2012 the Parliament started the process of revision of some provisions of the law. The Commission may be asked for an opinion on the new draft before the end of 2012;
- the 9<sup>th</sup> Conference of European Electoral Management Bodies, held in Tallinn on 4-5 June 2012. This Conference was organised jointly with the Central Electoral Commission of Estonia on the theme "Innovative solutions for Elections". The conclusions of the Conference, which brought together around 80 participants from 20 countries, were the following:

- new technologies should be used in full respect of the international standards in the field of data protection;
  - accurate voter lists require co-operation between election authorities and other authorities responsible for population registration and other administrative and judicial entities;
  - new technologies should be developed taking into account international standards and good practices aimed at fighting electoral fraud;
- the workshop training for trainers for Electoral Commissions of Kazakhstan (Astana, 1-2 June 2012), organised in the framework of a Joint Programme with the European Union. This training session was aimed at future trainers of members of territorial Commissions and polling stations in the Astana region. The next activity of this type would take place in Almaty on 29-30 June 2012;
- co-operation with Mexico in the electoral field with a view to the elections on 1 July 2012. The Commission could examine a draft opinion on the electoral legislation of Mexico in December 2012.

### **3. Measures to improve the democratic character of elections in the member States of the Council of Europe**

At the March 2012 session, the Council for Democratic Elections and the Venice Commission 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](#)). This document referred to a certain number of general questions which the Commission could develop. The Council discussed the points which could be earmarked for future work, on the basis of the document prepared by the secretariat ([CDL-EL\(2012\)005](#)). There was intense discussion on the basis of the memorandum, especially on the subjects which could be developed. The following proposals were made:

- Develop the following issues, as suggested in the memorandum: the composition of electoral commissions in terms of practice, the internal functioning of parties, women's representation in parliament, the balance of private media during campaigns and abuse of administrative resources during elections;
- Develop a more sociological and not solely legal approach to elections, especially in the light of practical policies to date and the issue of the content of the discussions and analysis of the quality of exchanges, to motivate the electorate;
- Develop the question of electoral systems, including the drawing of constituency boundaries, particularly with regard to the limited choice offered to voters by some systems;
- Develop the question of internal functioning of parties:
  - especially the primaries, or more broadly the internal candidate selection process;
  - the possibility for administrative and jurisdictional independent bodies responsible for monitoring the party statutes, and
  - the possibilities of judicial appeal;
- Develop the issue of equal opportunities between candidates rather than exclusively the question of a cap on party funding;
- Develop the question of access for small political factions to political life and the way in which this access can be granted;
- Develop the question of judicial control of the electoral process and the deadlines for dealing with appeals;
- Develop the issue of territorial representation, regardless of the representation of populations;

- Develop the idea of expanding the Venice Commission's legal opinions, based on the principles established by the Code of Good Practice in Electoral Matters;
- Up-date the Venice Commission's work on the use of new technologies in the electoral process.

It was decided that the Secretariat prepare a revised version of the memorandum based on the proposals made during the meeting of the Council. This revised version of the memorandum will be sent to the members of the Council in due course and will serve as a basis for the development of future activities.

#### **4. Non-Partisan Election Observation and Monitoring**

During this session, the Council for Democratic Elections and the Venice Commission were invited to support the declaration of Global Principles for non-partisan Election observation and monitoring by citizen organizations and the Code of conduct for non-partisan citizen election observers and monitors ([CDL\(2012\)032](#)).

This text was initiated by the Global Network of Domestic Election Monitors (GNDEM). According to its web site <http://www.gndem.org/aboutgndem> "The more than 150 GNDEM members, including regional networks and individual nonpartisan election monitoring organizations spanning over 60 countries on five continents, form this global network in order to better meet challenges for achieving genuinely democratic elections and to further our common aspirations for representative, responsive, transparent, democratic governance."

The Declaration and the Code were launched at a ceremony at the United Nations Headquarters in New York on 3 April 2012. These texts are supported in particular by the High Representative of the European Union for Foreign Affairs and Security Policy, Baroness Ashton; International IDEA; the Organisation of American States (OAS); the OSCE/ODIHR; the European Parliament; the Commonwealth Secretariat; the UN Secretariat.

The Parliamentary Assembly and the Congress of Local and Regional authorities of the Council of Europe might also support these texts. As this is an existing text it will not be modified. This document follows on from the Declaration of Principles for International Election Observation ([CDL-AD\(2005\)036](#)), endorsed by the Council and the Commission in October 2005. The main limitation of this text is that its scope is restricted: it only applies to truly non-partisan observers.

**The Council proposed that the Commission endorse the declaration of Global Principles for non-partisan Election observation and monitoring by citizen organizations and the Code of conduct for non-partisan citizen election observers and monitors ([CDL-AD\(2012\)018](#)).**

#### **5. Hungary**

Following a request from the Ministry of Foreign Affairs of Hungary, the Venice Commission and the OSCE/ODIHR prepared a draft opinion ([CDL\(2012\)033](#)) on the Act on the Elections of Members of Parliament of Hungary ([CDL-REF\(2012\)003](#)) on the basis of comments by Messrs Mifsud Bonnici, Sanchez Navarro, Volla (expert, Norway) and Petit (OSCE/ODIHR expert). In the framework of the preparation of this opinion, a Venice Commission

delegation travelled to Budapest on 24-25 May 2012 and met with, in particular, representatives from the Hungarian Parliament, political parties, the Constitutional Court and the civil society.

Mr Mifsud Bonnici presented the draft opinion and reiterated the context of the constitutional and organic reforms in Hungary as well as the main innovations of the law. He then indicated the principle recommendations of the Venice Commission and the OSCE/ODIHR which mainly concern the size of constituencies which should be subject to ordinary law; the need for a broader political consultation for the reform of fundamental elements of an electoral text, in particular the choice of the electoral system; the need to define more clearly the method of distributing seats; the need for a more precise control of overseas voting in the law; and the need to ensure the secrecy of the vote in the law.

In addition Mr Mifsud Bonnici pointed out that the Hungarian authorities ([CDL\(2012\)046](#)), as well as the Parliamentary Assembly of the Council of Europe, had sent comments on the draft opinion of the Venice Commission. On this basis the Secretariat had distributed proposals for amendments to the draft opinion which had been prepared on the basis of the comments received.

**The Council adopted the joint opinion on the Act on the Elections of Members of Parliament of Hungary with some amendments ([CDL-AD\(2012\)012](#)).**

## **6. Future activities**

The Council dealt with future activities of a general nature under item 3.

In particular, 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 hold office) should be submitted to the Council in October or December 2012. The Secretariat has consulted the members to up-date the comparative tables prepared for the studies.

Furthermore, 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 being prepared by the Congress has been received.

In co-operation with the Ministry of Foreign Affairs and the National Assembly of Albania, and in the framework of the Albanian Chairmanship of the Committee of Ministers, the Venice Commission is organising a Conference on “The European Electoral Heritage - Ten Years of the Code of Good Practice in Electoral Matters” which will take place in Tirana on 2-3 July 2012. Members of the Council for Democratic Elections were invited to participate in this event.

The Secretariat informed the Council on activities planned in the framework of the Eastern Partnership Programme, more particularly the two most recent meetings planned in the framework of this programme, i.e. in Georgia beginning 2013 and in Strasbourg or Venice in Spring 2013. The themes are still to be decided with the electoral bodies of the countries concerned by the programme.

## **7. Co-operation with the OSCE/ODIHR**

An exchange of views was held with the representatives of the OSCE/ODIHR on the possibilities of future co-operation.

In particular a joint opinion on the draft revision of the Electoral Code of Albania will be prepared as soon as the draft is available. The opinion will probably be submitted to the Council at the December 2012 meeting.

In addition, Ms Nicola Schmidt indicated that two representatives of ODIHR will participate in the Conference organised in Tirana on 2-3 July 2012 on Ten Years of the Code of Good Practice in Electoral Matters. Concerning Kyrgyzstan, ODIHR has prepared informal comments on draft amendments to the Electoral Law and a request for opinion should be forthcoming. Ms Schmidt also pointed out that electoral observation missions should take place in Ukraine (where around 100 long term observers and 600 short term observers will be deployed) and in Georgia. Finally, Ms Schmidt informed the Council that two publications will shortly be issued; one on voter registration and the other relative to guidelines for monitoring the media.

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

It was decided to hold the next meeting of the Council for Democratic Elections on Thursday, 11 October 2012 at 10.00 a.m.

**LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS**

**COMMISSION DE VENISE / VENICE COMMISSION**

Membres / Members

M. Jean-Claude COLLIARD (excusé)  
Mr Oliver KASK  
Mr Ugo MIFSUD BONNICI (excusé)  
Mr Peter PACZOLAY (excusé)

Membres suppléants / Substitute Members

Ms Maria del Carmen ALANIS FIGUEROA  
Ms Paloma BIGLINO (excusée)  
Mr Paul CRAIG  
Mr Srdjan DARMANOVIC  
Mr Hjortur TORFASON  
Mr Nicolae ESANU

Secrétariat / Secretariat

M. Thomas MARKERT, Directeur, Secrétaire de la Commission de Venise  
M. Pierre GARRONE, Chef de la Division des élections et des référendums  
Mr Serguei KOUZNETSOV, Head of the Neighbouring Cooperation Division  
M. Gaël MARTIN-MICALLEF, administrateur, Division des élections et des référendums

**ASSEMBLEE PARLEMENTAIRE / PARLIAMENTARY ASSEMBLY**

Membres / Members

Mme Josette DURRIEU, Commission politique  
M. Andreas GROSS, Commission juridique (**Président/Chair**)  
Mme Karin S. WOLDSETH, Commission de suivi (excusée)

Membre suppléant / Substitute Member

Mme Marietta de POURBAIX-LUNDIN, Commission juridique (excusée)

Secrétariat / Secretariat

Mme Caroline RAVAUD, Chef de secrétariat, Commission de Suivi

**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/Chamber of Local Authorities (excusé)  
Mrs Gudrun MOSLER-TÖRNSTRÖM, Chambre des régions/Chamber of Regions (excusée)

Membres Suppléants / Substitute Members

Mr Nigel MERMAGEN, Chambre des pouvoirs locaux/Chamber of Local Authorities (excusé)  
Ms Valentina ROSSI, Chambre des régions/Chamber of Regions (excusée)

**OBSERVATEURS / OBSERVERS**

**BIDDH / ODIHR**

Ms Nicola SCHMIDT, Deputy Head of the Elections Department  
Mr Armin RABITSCH, Senior Election Advisor

**UNION EUROPEENNE / EUROPEAN UNION**

**COMMISSION EUROPEENNE / EUROPEAN COMMISSION**

**PARLEMENT EUROPEEN / EUROPEAN PARLIAMENT**

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

M. Luc VAN DEN BRANDE (excusé)