



Strasbourg, 27 October 2016

CDL-EL-PV(2016)003*
Or.Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**56th MEETING
OF THE COUNCIL FOR DEMOCRATIC
ELECTIONS**

Venice, 13 October 2016 at 10.00 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 document CDL-EL-OJ(2016)003ann.

2. Publication of lists of voters having participated in elections – Interpretative declaration of the Code of good practice in electoral matters

At its meeting in June 2016, the Council continued its discussions on the issue of publication of lists of voters having participated in the elections. A draft interpretative declaration on the issue (CDL(2016)034) was submitted to the Council for adoption.

The secretariat, having prepared the draft declaration, stated that this document responded to requests from participants in the electoral process, notably in Armenia, to see such lists published to prevent impersonation of voters who were on the list but did not vote, particularly because they were *de facto* abroad. In short, the draft interpretative declaration is in favour of meaningful access to lists of voters having participated in the elections, but not the publication of such lists.

The Council decided to add an item IV.4 to the declaration that "These rules do not affect the right of each voter to have access to their own data."

The Council adopted the Interpretative declaration of the Code of good practice in electoral matters on the publication of lists of voters having participated in elections (CDL-AD(2016)028).

3. Armenia – Electoral Code

In June 2016, the Council for Democratic Elections and the Venice Commission approved a first preliminary joint opinion of the Venice Commission and the OSCE/ODIHR on the draft Electoral Code of Armenia as of 18 April 2016 ([CDL-AD\(2016\)019](#)). During the session, the Armenian Minister of Justice had requested a new joint opinion on the extent to which, following the publication of the preliminary opinion (30 June 2016), these new amendments addressed the recommendations presented therein. Given the urgency of this matter (the local elections were to take place in October 2016 and the electoral Code should be adopted beforehand), the Commission authorised the rapporteurs to prepare a new preliminary joint opinion and send it to the Armenian authorities before the October session, which was done on 19 July. The Council was invited to endorse the second preliminary joint opinion by the Venice Commission and the OSCE/ODIHR ([CDL-PI\(2016\)008](#)) on the draft electoral code of Armenia as amended on 30 June 2016 ([CDL-REF\(2016\)044](#); see also [CDL-REF\(2016\)042](#) and [CDL-REF\(2016\)043](#)), drawn up on the basis of comments by Mr Barrett, Ms Biglino, Mr Tanchev and Mr Vollan (Venice Commission expert) as well as Mr Vasil Vashchanka (OSCE/ODIHR expert).

Mr Lappin presented the draft joint opinion. Armenia had adopted a revised constitution during the referendum of 6 December 2015, going from a semi-presidential to a parliamentary system. The new Constitution provided for the entry into force of the Election Code on 1 June 2016 at the latest. The Electoral Code entered into force on that date.

An extraordinary Session of the National Assembly was held on 27-30 June 2016, at which two laws were adopted. The first one aimed at improving technical aspects of the process; its entry into force was dependent on the adoption, before 1 September 2016, of a Central Electoral Commission decision on the availability of relevant financial means. The second law contained amendments which addressed some of the recommendations presented by the Venice

Commission and the OSCE/ODIHR in their first Joint Opinion. This second law entered into force on 30 July 2016.

The new Electoral Code as amended on 30 June 2016 took into account a significant number of the recommendations made in the previous opinion, notably:

- The time-period for the formation of political coalitions after the first round of elections had been doubled in order to avoid a second round;
- Access to the stamped voter lists had been made possible.
- The mandatory test for citizen observers had been removed. According to the draft Code, the requirement for specific provisions in the charter of the citizen observer organisations to have been in force for at least three years preceding the elections had been reduced to one year, but regrettably not totally removed;
- The requirement for the President to appoint the acting chairperson or a member of the CEC “in consultation with parliamentary factions” had been added;
- Women’s representation had been enhanced by increasing the minimum quotas for each gender on candidate lists;
- The CEC was now obliged to develop and publish training materials for members of all electoral commissions, specialists, candidates, proxies, observers, and voters.

The first Joint Opinion had recommended reconsidering the restrictions on the number of participants in coalitions. This recommendation had not been followed, as well as some others of lesser importance.

Mr Lappin informed the Council that a needs assessment mission was planned before the next elections.

Mr Dickson reported on the mission to observe the local elections on 18 September, the conclusions of which are to be adopted by the Congress during week commencing 17 October. Despite some irregularities, the elections were well prepared and were generally consistent with international standards. Some problems arose with voters abroad; Mr Dickson reminded the Council that Congress Resolution 369 (2015) on electoral lists and voters residing *de facto* abroad, states that only residents have the right to vote. The Congress welcomed that broad political discussions had taken place before the adoption of the text. Pilot projects on the use of new technologies, in particular on the collecting of digital fingerprints, could be organised on the occasion of the forthcoming partial elections as well as the 2017 General Elections and the partial local elections in February 2017.

Ms Granata-Menghini underlined that the Minister of Justice of Armenia had promised to push for the adoption of amendments to the law, and she had done so. The agreement between the majority and the opposition was to be welcomed. The introduction of the planned law on technical innovations had not been possible owing to its non-implementation. Even though the authorities were not in favour and were aware that this was not in conformity with the Code of good practice on electoral matters, they then accepted wide access to the list of voters having participated in elections, at the request of the opposition and the civil society.

The Commission endorsed the second preliminary Joint Opinion of the Venice Commission and the OSCE/ODIHR on the Electoral Code of Armenia (as amended on 30 June 2016), (CDL-AD(2016)031).

4. “The former Yugoslav Republic of Macedonia” – Electoral Code

Following the request of the Parliamentary Assembly’s Monitoring Committee, the Council was invited to examine, with a view to adoption, the draft joint opinion ([CDL\(2016\)030](#)), by the

Venice Commission and the OSCE/ODIHR, on the electoral Code of "the former Yugoslav Republic of Macedonia" as amended on 9 November 2015 ([CDL-REF\(2016\)020](#)), drawn up on the basis of comments by Mr Darmanovic, Mr Kask, Mr Vilanova Trias and Mr Donald Bisson (OSCE/ODIHR expert).

Mr Darmanovic introduced the draft joint opinion. The amendments addressed a number of recommendations raised in previous opinions of the Venice Commission and the OSCE/ODIHR, as well as OSCE/ODIHR election observation reports, including on the principle of equal suffrage for out-of-country voting, the composition and competences of the State Election Commission (SEN), the level playing field in terms of media coverage during the election period, party and campaign finance reporting and auditing, deadlines for courts to decide on electoral disputes, procedures to enhance the accuracy of voter lists and mechanisms for promoting women's participation as candidates.

However, a number of previous Venice Commission and OSCE/ODIHR recommendations remained unaddressed and some gaps and ambiguities needed to be eliminated. The Code would benefit from a complete review in order to harmonise it internally and with other relevant laws. Key recommendations pertaining to parliamentary elections that remained to be addressed included:

- Candidate registration, especially those related to signature collection;
- Dismissal of members of the election administration;
- Restrictive campaign regulations related to the length of the campaign, and to the broad definition of campaign activities;
- Public hearings on complaints and appeals;
- Periodic reallocation of seats or review of district boundaries by an independent body.

Mr Garrone said that during the visit of the Venice Commission and OSCE/ODIHR delegations which took place in Skopje on 21-22 September 2016, the main criticisms were not on the law but on the confusion between the main party and the state and "*clientelism*".

Ms Ravaud indicated that one of the main problems is the lack of census. However, an agreement between the majority and the opposition on the updating of voter lists was foreseen. Regarding the media, an independent journalist has been appointed to follow the campaign.

Ms Martin-Rozumilowicz highlighted progress made in maintaining lists; however, a new Albanian party had appealed to the Constitutional Court for the annulment of recent amendments; if the appeal was admitted, this would also enable the update of electoral rolls.

Mr Lappin informed the Commission that a first OSCE/ODIHR team would travel to the country on 24 October, hoping that the elections would actually take place on 11 December.

The Commission adopted the Joint Opinion by the Venice Commission and the OSCE/ODIHR on the Electoral Code of "the former Yugoslav Republic of Macedonia", as modified on 9 November 2015 (CDL-AD(2016)032).

5. Communication by the Secretariat

Since the Council's June 2016 meeting the following activities, organised by the Venice Commission or in which the Venice Commission participated, have taken place in the field of elections and political parties:

- Meeting with representatives of the working group on electoral reform of Ukraine (Strasbourg, 22-23 June 2016):

The secretariat presented this meeting and its context. In early May 2016, Mr Paruby, Speaker of the Verkhovna Rada, created an informal working group to prepare a new law on the parliamentary elections in Ukraine. This working group is composed of parliamentarians from the different groups represented in Parliament, as well as experts in electoral law and representatives of public organisations. The meeting held on 22-23 June, organised at the Venice Commission's initiative, was an opportunity to discuss the possibilities for amendment to the electoral law of Ukraine, in particular concerning the electoral system, media and elections as well as measures which could be taken to combat the misuse of administrative resources.

Mr Markert informed the Council that Mr Buquicchio, at a meeting with the Speaker of the Verkhovna Rada, had been informed that there are seven drafts for reform of the electoral legislation. At this moment, we do not know which of these drafts will be submitted to parliament.

Ms Ravaud indicated that the Assembly rapporteurs will travel to Ukraine during week commencing 17 October.

- Conference on "Media freedom as a cornerstone for democratic elections" (Berlin, 4 July 2016);
- Political Party Expert Workshop (Kyiv, 6 July 2016);
- Conference of the Political Finance Community of Practice (London, 19 July 2016);
- Conference on electoral justice, organised on the occasion of the twentieth anniversary of the Mexican Electoral Court (Mexico City, 24-26 August 2016);
- Long-term assistance to the Central Election Commission of Georgia (8 August to 16 September 2016), and training on electoral disputes (Tbilisi, 17-18 September 2016);
- Legal assistance to the Parliamentary Assembly of the Council of Europe's delegation observing Parliamentary elections in Belarus (11 September 2016);
- Training seminar on electoral dispute resolution (Chisinau, 13-15 September 2016);
- Legal assistance to the Parliamentary Assembly of the Council of Europe's delegation observing Parliamentary elections in Jordan (20 September 2016);
- The 25th Conference of the ACEEEO (Tirana, 21-23 September 2016);
- Legal assistance to the Parliamentary Assembly of the Council of Europe's delegation observing Parliamentary elections in Morocco (7 October 2016);
- Legal assistance to the Parliamentary Assembly of the Council of Europe's delegation observing Parliamentary elections in Georgia (8 October 2016).

The following activities are already planned from now to the next meeting of the Council:

- Legal assistance to the Parliamentary Assembly of the Council of Europe's delegation observing Parliamentary elections in Montenegro (16 October 2016);
- Regional Conference on "Follow-up to the recommendations of international Election Observation Missions in the countries of the Eastern Partnership" (Venice, 24-25 October 2016);
- Legal assistance to the Parliamentary Assembly of the Council of Europe's delegation observing Presidential elections in Moldova (30 October 2016);
- Legal assistance to the Parliamentary Assembly of the Council of Europe's delegation observing Presidential elections in Bulgaria (6 November 2016);
- Annual meeting of experts on political parties (Warsaw, 11-12 December 2016);

- Legal assistance to the Parliamentary Assembly of the Council of Europe's delegation observing Parliamentary elections in "the former Yugoslav Republic of Macedonia" (11 December 2016).

The Secretariat gave further details on the above activities at the members' request.

6. Co-operation with the OSCE/ODHIR

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

Mr Lappin indicated that the OSCE/ODIHR had observed recent parliamentary elections in Belarus, the Russian Federation, Georgia and Lithuania. The OSCE/ODIHR would attend the second round in Georgia, the presidential elections in the Republic of Moldova (1st and 2nd rounds), the parliamentary elections in "the former Yugoslav Republic of Macedonia", San Marino and Romania, and probably during the presidential elections in Uzbekistan; a small group of experts would be deployed to Austria for the repeat presidential elections. In Belarus, Georgia, Republic of Moldova and "the former Yugoslav Republic of Macedonia", the observation had been carried out in co-operation with the Parliamentary Assembly of the Council of Europe. In 2017 observation missions are planned in Armenia, the Netherlands and Turkmenistan.

A Handbook on the Follow-up of Electoral Recommendations had been published. Two new handbooks are planned, on the role of public security providers in elections and on the observation and the promotion of people with disabilities during electoral processes.

The OSCE/ODIHR intends to commence a three year project in the Western Balkans on follow-up to its recommendations. Activities relating to the revision of the Electoral Code should soon start in Albania in co-operation with the Venice Commission.

7. Date of the next meeting

The Council fixed its next meeting for Thursday 8 December 2016 at 10.00 a.m.

Mr Dickson informed the Council that he has prepared a report on the misuse of administrative resources which will be submitted to the Congress for adoption during week commencing 17 October. This report follows up to the work of the Venice Commission and the OSCE/ODIHR on this subject and Mr Dickson suggested that it could be endorsed during the Council's next meeting.

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

VENICE COMMISSION / COMMISSION DE VENISE

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

Ms Maria del Carmen ALANIS FIGUEROA (excusé/apologised)
Mr Srdjan DARMANOVIC
Mr Aivars ENDZINS
Mr Oliver KASK (**Vice-Chair/Vice-Président**) (excusé/apologised)

Substitute Members of the CDE / Membres suppléants du CED

Mr Richard BARRETT (excusé/apologised)
Ms Paloma BIGLINO CAMPOS (excusée/apologised)
Mr Paul CRAIG (excusé/apologised)
Mr Ben VERMEULEN (excusé/apologised)

Other members of the Venice Commission / Autres membres de la Commission de Venise

Secretariat / Secrétariat

Mr Thomas MARKERT
Ms Simona GRANATA-MENGHINI
Mr Pierre GARRONE

Experts

Mr Alberto GUEVARA CASTRO

PARLIAMENTARY ASSEMBLY / ASSEMBLÉE PARLEMENTAIRE

Members / Membres

Lord Richard BALFE, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme
Ms Josette DURRIEU, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie (excusé/apologised)
Mr Jordi XUCLÀ, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe/Commission pour le respect des obligations et engagements des Etats membres du Conseil de l'Europe (excusé/apologised)

Substitute members / Membres suppléants

Ms Eka BESELIA, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme (excusée/apologised)
Lord Donald ANDERSON, Commission des questions politiques et de la démocratie (excusé/apologised)
Mr Tiny KOX, Monitoring Commission/ Commission de suivi (excusé/apologised)

Secretariat / Secrétariat

Ms Caroline RAVAUD

**CONGRESS OF LOCAL AND REGIONAL AUTHORITIES (CLRAE) / CONGRÈS DES
POUVOIRS LOCAUX ET RÉGIONAUX (CPLRE)**

Members / Membres

Mr Stewart DICKSON, Chamber of Regions/Chambre des régions

Mr Jos WIENEN, Chamber of Local Authorities/Chambre des pouvoirs locaux **(Chair)**
(excusé/apologised)

Secretariat / Secrétariat

Ms Stéphanie POIREL

**DIRECTORATE GENERAL OF DEMOCRACY / DIRECTION GENERALE DE LA
DEMOCRATIE (DGII)**

Mr François FRIEDERICH (excusé/apologised)

OBSERVERS / OBSERVATEURS

ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE)

**Office for Democratic Institutions and Human Rights (ODIHR) / Bureau des institutions
démocratiques et des droits de l'Homme (BIDDH)**

Mr Richard LAPPIN

EUROPEAN UNION / UNION EUROPEENNE

**European External Action Service (EEAS) / Service européen pour l'action extérieure
(SEAE)**

Mr Emanuele GIAUFRET (excusé/apologised)

European Parliament / Parlement européen

Mr Pietro DUCCI, Democracy and Elections Unit (excusé/apologised)

**INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE
(INTERNATIONAL IDEA)**

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Dr Beata MARTIN-ROZUMILOWICZ, Director for Europe and Eurasia