



Strasbourg, 4 April 2017

CDL-EL-PV(2017)001*
Or. Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**58th MEETING
OF THE COUNCIL FOR DEMOCRATIC
ELECTIONS**

Venice, 9 March 2017 at 10.00 a.m.

MEETING REPORT

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1. Adoption of the agenda

The Council adopted the agenda as it appears in document CDL-EL-OJ(2017)001ann.

2. Election of a Chair

Mr Wienen has completed his term of office as Chair of the Council. The Council was therefore invited to elect a President of the Council for Democratic Elections for a two-year period. Mr Wienen was not seeking re-election.

Mr Wienen underlined that there had been a certain consolidation of democratic processes under his chairmanship. The Council had dealt with documents of a general nature, concerning the lists of voters de facto abroad, the publication of list of voters having participated in elections or the misuse of administrative resources during electoral processes as well as with opinions concerning domestic legislation on elections or on political parties (Armenia, Georgia, Republic of Moldova, “the former Yugoslav Republic of Macedonia” and Ukraine). He thanked Ms Renate Zikmund for her invaluable assistance.

However, other developments were of more concern, in particular the role of social media and fake news involving foreign states and discussions on the legitimacy of representative democracy, issues which could be dealt with by the Council.

Two candidates were put forward for the Chair of the Council for Democratic Elections, Mr Kask and Mr Xuclà.

Mr Darmanovic and Mr Vermeulen pointed out that Mr Kask had been a member of the Council for 10 years and its Vice-Chair for almost three years. He has contributed much to the Council’s work. It should also be noted that, since the Council’s creation, there has never been a Chair from amongst the members of the Venice Commission nor from a country from Central and Eastern Europe.

The Council decided to hold a secret ballot. Out of the eight members entitled to vote, Mr Kask obtained six votes and Mr Xuclà one vote; there was one blank ballot.

Mr Kask was elected Chair of the Council for Democratic Elections for a two-year term of office.

Mr Kask thanked the members of the Council for their support. He said that he had first been involved in electoral matters for the Venice Commission in 2005 (legal assistance to a delegation observing the elections in Albania), and that this had been followed by many more. He highlighted the Council’s numerous activities – not only opinions and studies, but also the Conference of Electoral Management Bodies, and other Conferences and training seminars – as well as the positive character of the Council’s tripartite composition. He also emphasized the importance of co-operation with the OSCE/ODIHR, as well as with other international organisations and national authorities.

3. Co-operation with the OSCE/ODIHR – intervention by Mr Link

Mr Georg-Michael Link, Director of the OSCE/ODIHR spoke about the co-operation between the Venice Commission and the OSCE/ODIHR in the electoral field.

Mr Link, the first Director of the OSCE/ODIHR to participate in a meeting of the Council for Democratic Elections, reminded the Council that ODIHR is an integral part of the OSCE but possesses an autonomous mandate. He reiterated the importance of the OSCE/ODIHR's co-operation with both the Council for Democratic Elections and the Venice Commission. This co-operation has been constant and fruitful for many years and contributes to consistent messaging on electoral issues, which is important to avoid possible 'forum shopping'. The Council for Democratic Elections makes it possible to hold exchanges of views both with elected members of the Assembly and of the Congress, as well as specialised lawyers from the Venice Commission. Further co-operation on promoting follow-up to the final reports of OSCE/ODIHR election observation missions would be welcome.

Mr Kask and Mr Markert underlined the quality of the OSCE/ODIHR's co-operation both with the Council for Democratic Elections and with the Venice Commission under Mr Link's mandate. At a time when recommendations by international organisations are often challenged, this co-operation is invaluable and enables the OSCE/ODIHR's more technical skills to be combined with the Venice Commission's more general legal competences. Closer co-operation in the drafting of election observation reports would be a step in the right direction.

4. The misuse of administrative resources during electoral processes at local and regional levels – Congress draft checklist

At the March 2016 session, the Council for Democratic Elections and the Venice Commission adopted joint guidelines with the OSCE/ODIHR for preventing and responding to the misuse of administrative resources during electoral processes ([CDL-AD\(2016\)004](#)). At its 31st session (October 2016) the Congress of Local and Regional Authorities of the Council of Europe adopted Resolution 402(2016) on "The misuse of administrative resources during electoral processes: the role of local and regional elected representatives and public officials". On this basis, the Congress prepared a document entitled "Checklist for compliance with international standards and best practices preventing misuse of administrative resources during electoral processes at local and regional level" which complements the joint guidelines by focusing specifically on the local and regional level (CG-MON01(2017)10). The Secretary General of the Congress requested the Venice Commission's opinion on this text before its adoption by the Congress.

The Council was invited to adopt the draft joint opinion by the Venice Commission and the OSCE/ODIHR on the draft Checklist for compliance with international standards and best practices preventing misuse of administrative resources during electoral processes at local and regional level, drawn up on the basis of comments by Mr Barrett and Mr Kask as well as OSCE/ODIHR experts.

Mr Kask presented the draft opinion and thanked the Congress, in particular Mr Dickson, for its contribution. The Congress' draft Checklist should be welcomed: it follows up to and is in conformity, in both its terminology and in its content, with the report (CDL-AD(2013)033) and the Venice Commission's guidelines. National differences should be taken into account: what is abuse in one country is not necessarily so in another. Furthermore, the document's structure could be clarified and certain repetitions rectified. It would also be desirable to indicate in the introduction, to whom the checklist is addressed (e.g. election observers).

Mr Barrett stated that the general principle, that authorities should not use public funds for electoral campaigns, seems simple. However in practice, a checklist is not simple to develop: the questions may vary according to the country and the recipients.

Mr Shlyk, on behalf of the OSCE/ODIHR, proposed some minor technical amendments, which were accepted by the Congress. He stated that the checklist will be useful, in particular for election observers.

Ms Durrieu underlined that it is important to observe not only what occurs on the Election Day but also before and afterwards. Good practices should appear in codes of conduct.

The Congress representatives indicated that the version presented had been adopted by the Congress' Monitoring Committee on 16 February. A revised version, taking into account proposals by this Council and the Venice Commission will be submitted to its plenary on 29 March. The next step could be to produce an easy-to-use text, taking into account the different target groups.

The Council adopted the draft joint opinion by the Venice Commission and the OSCE/ODIHR on the draft checklist for compliance with international standards and best practices preventing misuse of administrative resources during electoral processes at local and regional level (CDL-AD(2017)006).

5. Communication by the Secretariat

- Activities organised between the Council's 57th and 58th meetings :
 - Fact finding mission to define the modalities of long term technical assistance to the Central Electoral Commission of "the former Yugoslav Republic of Macedonia" (Skopje and Strumica, 23-26 January 2017).
 - Second General Assembly of the Organisation of Arab Electoral Management Bodies (Tunis, 7 February 2017).
 - Conference on "Innovative Services and Effective Electoral Procedures" (Borjomi, Georgia, 27-28 February 2017) (7th Annual Meeting of Electoral Management Bodies)
 - Long term technical assistance to the Central Electoral Commission of Armenia from 27 February to 3 April 2017
 - Long term technical assistance to the Central Electoral Commission of "the former Yugoslav Republic of Macedonia" (15 March - 15 June 2017)
 - Seminar on Electoral disputes in Armenia (Yerevan, 4 - 10 March 2017)

Mr Chahbazian underlined the excellent co-operation between the Venice Commission and the Parliamentary Assembly in the field of election observation. En 2016, the Assembly carried out 20 pre-election and election observation missions in 11 countries deploying a total of 186 members of parliament – these missions were carried out in close co-operation with the Venice Commission Secretariat and experts who participated in a majority of these missions.

6. Future activities

The 15th Annual Conference of Electoral Management Bodies will take place in St Petersburg on 15-16 May 2017 on the theme "Operational Electoral Management Bodies for democratic elections".

In addition the following activities are planned from now to the next meeting of the Council:

- Post electoral Conference in Georgia (Tbilisi, 13 March 2017)
- Workshop on the financing of political parties and election campaigns (Kyiv, 15 March 2017)
- Legal assistance to the Parliamentary Assembly delegation observing the parliamentary elections in Bulgaria (26 March 2017)
- International Conference on “financing of the political process during elections” (Tunis, 28-29 March 2017)
- Legal assistance to the Parliamentary Assembly delegation observing the parliamentary elections in Armenia (2 April 2017)

The Georgian Parliament has requested the Venice Commission’s involvement in constitutional reform. Certain of the main issues concern elections, in particular the shift from a mixed electoral system to a proportional regional system, combined with a new reduction in the powers of the President of the Republic (transition to a parliamentary system).

The Republic of Moldova is planning further modification of its electoral system to transform it to a mixed system. The Venice Commission was previously very critical of a similar approach (CDL-AD(2014)003) and could receive a new request, if necessary.

At its meeting in the afternoon of 9 March the Scientific Council would examine a draft compilation on referendums, with a view to its adoption by the Commission. This compilation could be followed by a new study on this issue, in particular concerning the use of referendums to strengthen the power of the executive.

In addition, three studies are currently being prepared: lessons to be learnt from 25 years of international election observation; the identification of electoral fraud by statistical methods; and the allocation of seats to constituencies, as well as a compilation on electoral disputes.

Mr Shlyk stated that the OSCE/ODIHR will observe the constitutional referendum in Turkey.

7. Date of the next meeting

The Council is invited to fix the date of its next meeting for Thursday 15 June 2017 at 10.00 am.

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)**

Mr Srdjan DARMANOVIC
Mr Aivars ENDZINS
Mr Oliver KASK
Ms Janine OTÁLORA MALASSIS (excusé/apologised)

Substitute Members of the CDE / Membres suppléants du CED

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

Secretariat / Secrétariat

Mr Thomas MARKERT
Ms Simona GRANATA-MENGHIN
Mr Pierre GARRONE
Mr Serguei KOUZNETSOV

Experts**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 (excusé/apologised)
Ms Josette DURRIEU, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie
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
Mr Corneliu Mugurel COZMANZIUC, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie (excusé/apologised)
Mr Tiny KOX, Monitoring Commission/ Commission de suivi (excusé/apologised)

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Mr Chemavon CHAHBAZIAN

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

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Mr Jos WIENEN, Chamber of Local Authorities/Chambre des pouvoirs locaux

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European External Action Service (EEAS) / Service européen pour l'action extérieure
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**INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE
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Ms Beata MARTIN-ROZUMILOWICZ, Director for Europe and Eurasia (excusée/apologised)

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