



Strasbourg, 8 November 2018

**CDL-EL-PV(2018)003\***  
Or. Engl.

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

**63<sup>RD</sup> MEETING  
OF THE COUNCIL FOR DEMOCRATIC  
ELECTIONS**

**Venice, 18 October 2018 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\(2018\)003ann.](#)

### 2. Albania – Draft law on the legislative initiative of citizens

Mr Kask informed the Council that the draft was intended as implementing the constitutional provision dealing with the legislative initiative of citizens. The main problem was the bureaucratic approach which made the process for such an initiative very cumbersome while the draft was submitted only to Parliament which could reject it, without any referendum. For example, the discretion of the Central Election Commission was too broad and substantial requirements should not be imposed for the initiation of the proceedings. The main recommendations were not to provide for such a formal and rigid procedure, otherwise citizens would better to do a petition or ask members of Parliament to submit a draft. Moreover, the draft opinion suggested some clarifications, by drawing a clear line between petition and citizen initiative.

Lord Balfe expressed doubts about the relevance of the procedure for a legislative initiative. Mr Kask answered that the Council was not taking a position of principle.

Mr Walecki raised attention on the need for transparency of financing and the need to avoid using such instruments as citizens' initiatives to be abused for obtaining funding.

**The Council adopted the Joint Opinion by the Venice Commission and the OSCE/ODIHR ([CDL-AD\(2018\)026](#)) on the draft law on the legislative initiative of citizens in Albania.**

### 3. Uzbekistan – Draft election code

Mr Kask introduced the draft opinion on the draft election code of Uzbekistan. He recalled that the request came from the Central Election Commission of Uzbekistan. To date, Uzbekistan has several separate electoral laws for organising different types of elections. Uzbekistan is thus responding to a long-term recommendation by international observers, in particular, the OSCE/ODIHR, to codify its electoral texts. By this, the legislator puts an end to the complexity of the current texts and inconsistencies found between these texts. Mr Kask underlined the co-operative spirit of the authorities, who submitted the draft electoral code to the Venice Commission and the OSCE/ODIHR. He pointed out, however, that many improvements in the text were recommended and concentrated on a few key recommendations made in the draft opinion: lack of effective provisions on certain fundamental freedoms, in particular campaigning; the need to supplement the text concerning the fight against the abuse of administrative resources; the need to review the provisions restricting the voting rights of different categories of electors; the need to strengthen the independence of election commissions.

Mr Akhundlu also underlined the co-operative spirit of the Uzbekistan authorities. He added that the president has signed a presidential decree to introduce the use of digital technologies in future electoral cycles. The electoral code is being adapted. He added that the draft electoral code would be adopted at the end of 2018, after 20 December. The next parliamentary elections will be held under the aegis of the new electoral code at the end of December 2019.

**The Council adopted the Joint Opinion on the Draft election code of Uzbekistan ([CDL-AD\(2018\)027](#)).**

#### 4. Communication by the Secretariat

Mr Kask informed the Council that the secretariat had carried out a comparison of the French and English versions of the Codes of Good Practice in Electoral Matters ([CDL-AD\(2002\)023rev2](#)) and on Referendums ([CDL-AD\(2007\)008rev](#)) and seen a few discrepancies. The English version would be adapted to the French one.

**The Council took note that the English version of some provisions of the Code of Good Practice on Referendums and of the Code of Good Practice in Electoral Matters will be aligned to the French version.**

The following activities took place between the 62<sup>nd</sup> and 63<sup>rd</sup> meetings of the Council for Democratic Elections:

- Legal assistance to the Parliamentary Assembly delegation observing early presidential and parliamentary elections in Turkey, 24 June 2018;
- 3<sup>rd</sup> Conference on money and politics (Tbilisi, 26-27 June 2018);
- Workshop on out-of-country voting (Tirana, 27 June 2018);
- Workshop on electoral administration (Tirana, 3 July 2018);
- Workshop on media during the electoral campaign (Tirana, 4 July 2018);
- The second round of regional public discussions of the draft Election Code of Ukraine (Rivno - 13 July, Chernivcy – 16 July, Khmelnytskyi – 17 July, Odessa - 19 July, Mikolaiv - 24 July, Kherson - 25 July, Zaporijia – 26 July and Kropyvnytskyi - 27 July 2018).
- Testing of the training course for judges "Election Dispute Resolution" (Kiev, Ukraine, 19-20 July 2018);
- 27<sup>th</sup> ACEEEO Conference on "Guaranteeing Voter Privacy, Security and Integrity" (Vilnius, 5-7 September 2018);

Lord Balfe informed the Council that he had attended this conference (with 150 participants) and the one on the previous day, entitled "Launch Event of IFES' Regional Electoral Jurisprudence Network in the Western Balkans". Ms Martin-Rozumilowicz thanked the Venice Commission for taking part in the latter meeting, organised by IFES. The next meeting would take place in Bosnia and Herzegovina in May or June and be followed by a conference on election dispute resolution in Slovenia. Mr Kask reminded that the next European Conference of Electoral Management Bodies, to take place in Slovakia in June 2019 and would be dedicated to election dispute resolution.

- Video Conference on the powers of the Central Electoral Commission in Bosnia and Herzegovina (Strasbourg, Kiev, Sarajevo, 11 September 2018);
- The third and the last round of regional public discussions of the draft Election Code of Ukraine (Dnipro and Lviv, Ukraine, 12-14 September 2018);
- Legal assistance to the Parliamentary Assembly delegation observing the referendum in "the former Yugoslav Republic of Macedonia", 30 September 2018;

- High-level workshop on money and politics, Pristina, Kosovo, 4 October 2018;
- Legal assistance to the Parliamentary Assembly delegation observing elections in Bosnia and Herzegovina, 7 October 2018;
- The second International Conference of the Arab Union of Administrative Judiciary in Collaboration with the Venice Commission on “Voting In Elections and Referendums - Right and Duty” (Cairo, Egypt, 8-9 October 2018);
- High level Conference on the future of international election observation (Brussels, 10-11 October 2018);

Mr Kask summarised this important conference, there had been approximately 400 participants. He said that the Venice Commission delegation composed of Mr Martin-Micallef and himself had spoken on the Parliamentary Assembly's Guidelines for Election Observation and the Declaration of Interests of Candidates for election observation of the Parliamentary Assembly (Annex 2 of the Guidelines), mentioning that each parliamentarian must sign in order to participate in the observation missions. These important documents aimed at strengthening the impartial exercise of election observation were recently drastically revised by the Parliamentary Assembly in order to enhance the impartiality of the Assembly's observation missions. The representatives of the Venice Commission also recalled the long-standing co-operation between the Assembly and the Venice Commission as well as the qualitative contribution of the Commission in joint assessments and conclusions of the international election observation missions. . Finally, they recalled the challenges of watching social media and the thorny issue of cyber-interference.

- Conference on electoral interference in the digital age (Brussels, 15-16 October 2018).

Mr Barrett informed the Council that Ms Granata-Menghini and he had represented the Venice Commission at this conference, which was organised by the European Commission. The conference focused on cyber-threats, misinformation and disinformation in view of the next elections to the European Parliament. There was a trend to blur the distinction between technical interference and interference in the discourse; moreover, the issue of main fundamental rights had not so much been addressed. The European Commission tended towards a strong response rather than the use of soft instruments like codes of good practice. The Venice Commission was working on this issue in the study on social media and elections (see the report on the internet, social media and electoral processes submitted to the June meeting of the Council by Mr Vargas Valdez). Ms Granata-Menghini added that the conference focused on external rather than on internal threats. It was noted that some manipulations are easier to detect than carried out and that responses to these threats included self-regulation, legislation but also education of users.

## **5. Future activities**

The Venice Commission will participate in:

- Legal assistance to the Parliamentary Assembly delegation observing presidential elections in Georgia, 28 October 2018;
- International Conference on the draft election code (Tashkent, Uzbekistan, 16-17 November 2018).

- Turkey: preparation of a legal opinion on the draft amendments to the electoral legislation for the December 2018 session, following the request of the Monitoring Committee of the Parliamentary Assembly;
- Armenia: Mr Chahbazian informed the Council that early elections are likely to be held in Armenia on 9 December, and that the Bureau of the Assembly has decided to observe them. Mr Markert informed the Council that draft amendments had been submitted to the Commission and that several amendments took into account the previous recommendations of the Venice Commission; however, amendments to the electoral system aimed at eliminating regional constituencies and preferential voting are more problematic because they intervene very shortly before elections. The planned amendments, however, do not seem to benefit the current government, but are more the result of a political promise to amend the Electoral Code. A delegation from the Venice Commission will meet the Deputy Prime Minister of Armenia before the plenary session. Since it is not possible to draft an opinion before the adoption of the revised Electoral Code, it is proposed to make a statement by the President of the Commission. Ms Granata-Menghini added that the Prime Minister has resigned following an agreement with the Parliament that a new Prime Minister would not be proposed, which would pave the way for early elections. In the medium term, the government aims to abolish the constitutional provision aimed at ensuring the stability of the government; co-operation on this issue with the Venice Commission should take place after the elections.

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

An exchange of views took place with the representatives of the OSCE/ODIHR on the possibilities of future co-operation. Mr Lappin underlined the excellent co-operation with the Venice Commission in the electoral field – as evidenced for example by the recent preparation of the Joint Opinion on Uzbekistan and the joint referendum observation in “the former Yugoslav Republic of Macedonia” – and he informed the Council about on-going and future electoral activities of the OSCE/ODIHR. Observation activities were on-going with respect to Bosnia and Herzegovina, Georgia, Latvia and the USA, and preparations were made for the observation of possible early parliamentary elections in Armenia (probably to be held in December 2018); early elections might possibly be organised in Greece and in “the former Yugoslav Republic of Macedonia”. 2019 would again be a busy year, with observation activities already planned with respect to Estonia, Lithuania, the Republic of Moldova, Slovakia, “the former Yugoslav Republic of Macedonia” (presidential elections) and Ukraine. Furthermore, the OSCE/ODIHR was increasingly engaging in follow-up activities (in the last quarter, more than 15 in-country visits were carried out in order to provide technical expertise and support), with a particular focus on the Western Balkans; it might be useful to further extend the co-operation with the Venice Commission in this region. In particular, requests for legal opinions on electoral reforms in Albania (possibly by the end of 2018) and Montenegro (possibly within nine to 12 months) could be expected. Mr Lappin furthermore referred to the on-going preparation of new handbooks on Election dispute resolution (to be finalised end 2018/beginning 2019) and on campaigning in elections (currently at the conceptual stage, focused on online and offline campaigning). He also mentioned the recent elaboration by the OSCE/ODIHR of a leaflet entitled “Promoting a Professional Working Environment on Election Observation Activities”; that document, together with complementary measures such as training offered to observers, was aimed at further improving the culture of election observation and establishing a more proactive, victim-centred leadership on the issue.

**7. Date of the next meeting**

The Council fixed the date of its next meeting for Thursday, 13 December 2018 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 (apologised/excused)  
Mr Aivars ENDZINS  
Mr Oliver KASK (Chair/Président)  
Ms Janine OTÁLORA MALASSIS

#### *Substitute Members of the CDE / Membres suppléants du CED*

Mr Richard BARRETT  
Mr Paul CRAIG (apologised/excused)  
Mr Ben VERMEULEN (apologised/excused)  
Mr Pere VILANOVA TRIAS

#### *Secretariat / Secrétariat*

Mr Thomas MARKERT  
Ms Simona GRANATA-MENGHINI  
Mr Pierre GARRONE  
Mr Serguei KOUZNETSOV  
Mr Michael JANSSEN  
Mr Gaël MARTIN-MICALLEF

#### *Expert*

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  
Mr Corneliu Mugurel COZMANZIUC, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie (apologised/excused)  
Mr Tiny KOX, Committee on the Honouring of Obligations and Commitments by member States of the Council of Europe (Monitoring Committee)/ Commission pour le respect des obligations et engagements des Etats membres du Conseil de l'Europe (Commission de suivi) (apologised/excused)

#### *Substitute members / Membres suppléants*

Ms Eka BESELIA, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme (apologised/excused)  
Lord George FOULKES, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie (apologised/excused)  
Mr Aleksander POCIEJ, Committee on the Honouring of Obligations and Commitments by member States of the Council of Europe (Monitoring Committee)/ Commission pour le respect des obligations et engagements des Etats membres du Conseil de l'Europe (Commission de suivi)

#### *Secretariat / Secrétariat*

Mr Chemavon CHAHBAZIAN  
Ms Agnieszka NACHILO

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

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

Mr Stewart DICKSON, Chamber of Regions/Chambre des régions (apologised/excused)

**Substitute members / Membres suppléants**

Mr Luc MARTENS, Chamber of Local Authorities/Chambre des pouvoirs locaux (apologised/excused)

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Ms Stéphanie POIREL

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

(apologised/excused)

**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 Ulvi AKHUNDLU, Election Adviser

Mr Richard LAPPIN, Senior election advisor

Mr Marcin WALECKI, Head of the Democratization Department

**EUROPEAN UNION / UNION EUROPEENNE****European External Action Service (EEAS) / Service européen pour l'action extérieure (SEAE)****European Parliament / Parlement européen****INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE (INTERNATIONAL IDEA)****INTERNATIONAL FOUNDATION FOR ELECTORAL SYSTEMS (IFES)**

Ms Beata MARTIN-ROZUMIŁOWICZ, Director for Europe and Eurasia