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**RECURRENT CHALLENGES AND PROBLEMATIC ISSUES
OF ELECTORAL LAW**

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I. Introduction

1. More than two decades after the fall of the communist regimes in Central and Eastern Europe (CEE), most countries in the region have held general elections in accordance with international democratic standards. However, as various observer reports indicate, in some CEE countries the elections cannot be called “free and fair”, and in several others there have been more or less serious shortcomings in the democratic quality of elections until today, although the principles of universal, equal, free, secret and direct suffrage are constitutionally enshrined.

2. It goes without saying that democracy first of all needs a reliable commitment of the state authorities and other stakeholders, such as political parties and the media, to conduct free and fair elections. But electoral laws matter as well, because the regulations on electoral administration, campaigning, voting procedures etc. may be a more or less favourable framework for implementing the constitutional principles of democratic suffrage. This is particularly true for the CEE countries that unlike Western democracies have neither a long-standing rule-of-law tradition nor an administrative history based on the bureaucratic principle of impartiality. Due to these contextual differences, the electoral legislation from Western Europe could not serve as a blueprint for the CEE countries. Instead, the Electoral Codes that were introduced in the region during the early 1990s have been constantly amended. Within this process, international organizations have played an important role. Many recommendations of the Council of Europe and the OSCE/ODHIR based on regular electoral monitoring were taken up by national authorities. Additionally, the Council of Europe made a great effort to standardize the “European electoral heritage” in the “Code of Good Practice in Electoral Matters” that provides generally accepted guidelines for implementing the principles of democratic suffrage (see CDL-AD (2002) 23 rev; in the following “2002 Code”). As a consequence, electoral legislation in CEE has considerably improved since the 1990s. Nevertheless, various shortcomings in the democratic quality of elections remain. As highlighted by the “Report on Electoral Law and Electoral Administration in Europe” adopted in 2006 (see CDL-AD (2006) 018; in the following “2006 Report”), the electoral practice in several CEE countries has displayed a number of problematic issues that suggest the need for further debate and potential amendments.

3. Following up the 2006 Report, this paper tries to shed some light on recurrent problems of electoral legislation in CEE. For the sake of conciseness, it will focus on five issues that can be regarded as major challenges on the way towards an electoral practice that meets international democratic standards. The next section will elaborate on these issues, illustrating the relevant problems with observations from recent elections in selected CEE countries. The third section concludes.

II. Recurrent Challenges of Electoral Legislation in Central and Eastern Europe

The 2006 Report identifies twelve key areas in which significant problems with electoral matters emerged in CEE countries from the 1990s to the early 2000s.¹ Building on this thorough and detailed stock-taking, the following considerations concentrate on *five major fields of the electoral process* that still pose critical challenges for the implementation of democratic suffrage in the region. These are (1) the structures and procedures of the *election administration*; (2) the *right to vote and the eligibility to be elected*; (3) the regulations of the *election campaign*; (4) *voting and vote counting*; and (5) the provisions for *electoral appeal*. For each field, the ensuing paragraphs will highlight the overall challenges as well as specific issues that deserve particular attention in further debates on electoral reform.

¹ CDL-AD (2006) 018, sections II.-XIII.

1. Election Administration: Providing for Impartiality and Organizational Effectiveness

4. To secure the democratic quality of general elections, a professionalized election administration is indispensable that meets two essential requirements. First, it has to prevent any intervention in the electoral management by the acting government or by other political players. Second, it should provide for a smooth electoral process that is in strict line with international standards and thus cannot be credibly blamed for being unfree and/or unfair. Of course, there are many regulative details that are to be considered for establishing an impartial and effective election administration. Nevertheless, some key issues stand out. Following the relevant stipulations of the 2002 Code,² Electoral Commissions (ECs) should be set up as independent, permanent and multi-tiered bodies; EC members should be appointed by different institutions, not be recallable (except for clearly specified disciplinary reasons) and receive standardized training in election management; and the EC procedures should be clear and efficient, allowing for inclusive discussions and effective decisions at the same time.

5. Although these norms have been generally enshrined in the Electoral Codes of CEE during the past decade, there are still specific shortcomings in some countries. A case in point is Belarus where the President has predominant powers in appointing and dismissing the members of the Central Election Commission (CEC). This regulation has severely affected the independence and impartiality of the CEC. The lower tiers of the election administration in Belarus feature similar problems. The OSCE report of the 2010 presidential election notes that clear selection criteria for the members of Territorial and Precinct Election Commissions (TECs and PECs) are lacking. As a consequence, the bulk of TEC and PEC members were nominated by pro-governmental organizations whereas the respective nominees of oppositional groups were mostly rejected without proper reasons.³

6. In other CEE countries the provisions for selecting and replacing EC members is also an issue for scrutiny. In Albania, for example, OSCE observers questioned “the unrestricted right of political parties to replace members of mid-level and lower-level election commissions at will and without any legal cause (Articles 32.2 and 39.2 of the Electoral Code)”. In the background of this critique loomed the fact that at the 2009 parliamentary elections the parties made excessive use of replacing commission members, which “significantly affected the independence, professionalism and efficiency of the election administration and had a negative impact on the integrity of the electoral process”⁴.

7. Further recurrent problems of electoral administration refer to organizational structures. At the 2012 parliamentary and presidential election in Serbia, for instance, the ECs were generally said to fulfil their duties “efficiently and within legal deadlines”⁵. However, as a regional tier of election administration is still missing, the local ECs were hardly able to cope with their huge amount of work. As similar difficulties had already occurred in previous elections, international observers renewed their recommendation to introduce an intermediate level of election administration.⁶

² CDL-AD (2002) 23 rev, p. 26-29.

³ OSCE/ODHIR: Republic of Belarus, Presidential Election 19 December 2010, Election Observation Mission Final Report, Warsaw, 22 February 2011, p. 8-9.

⁴ OSCE/ODHIR: Republic of Albania, Parliamentary Elections 28 June 2009, Election Observation Mission Final Report, Warsaw, 14 September 2009, p. 7-8.

⁵ International Election Observation: Republic of Serbia – Parliamentary and Early Presidential Elections, 6 May 2012. Statement of Preliminary Findings and Conclusions, p. 2; see also Council of Europe, Parliamentary Assembly: Observation of the Parliamentary and Early Presidential Elections in Serbia (6 May 2012), Doc. 12938, p. 5.

⁶ Ibidem; CDL-AD (2006) 018, p. 8.

8. The last issue to be discussed here addresses a specific challenge: the organization of voting from abroad. In many European states, such opportunity has been introduced only in the recent past.⁷ This is particularly true for Moldova where the 2010 parliamentary election was the first in which citizens were allowed to cast their vote outside the state territory. However, the fact that “the criteria for establishing polling stations abroad were not transparent and the distribution of polling stations abroad did not correspond to the distribution of citizens of voting age residing abroad”⁸ led to severe political controversies. Some stakeholders suspected the governing parties of having done so deliberately in order to advantage their political strongholds abroad at the expense of those foreign countries in which the majority of voters tends to favour the opposition. In this case, more precise guidelines for establishing polling stations abroad would definitely help to avoid allegations of election fraud in the future.

2. Right to Vote and Eligibility: Securing Non-Discrimination

9. Universal suffrage – the right to vote (active electoral right) and to stand for election (passive electoral right or eligibility) – is a core element of modern democracy. It is of utmost importance that these fundamental rights are neither formally nor practically restricted for unjustified reasons.⁹

10. The actual regulations of the voting right in CEE countries are generally in line with international standards. Remaining problems include franchise restrictions for particular groups, such as prisoners (e.g. in Armenia, Belarus and Bulgaria).¹⁰ In some cases, passive electoral rights have also been unreasonably limited. For example, the electoral legislation in Armenia and Kazakhstan stipulates that candidates for parliament must have lived in the country for five and ten years respectively. Such lengthy residency requirements are inconsistent with good electoral practice.¹¹ Furthermore, at the 2010 general elections in Bosnia and Herzegovina citizens were barred from standing for presidency because of ethnic reasons. This regulation is a clear infringement of the European Convention on Human Rights.¹²

11. Even more widespread are various practical problems that lead to a de facto discrimination of (potential) voters and candidates. First of all, the implementation of universal suffrage presupposes complete voter registers and accurate procedures for voter registration. This issue is certainly “one of the most complex, controversial and often least successful parts of electoral administration in emerging and new democracies”¹³. In this respect many CEE countries have made considerable progress during the last years, especially by introducing unified and computerized voter registers. However, some shortcomings remain. For instance, international observers of the 2012 elections in Armenia reported that “the exchange of data among

⁷ See Dieter Nohlen/Florian Grotz: The Legal Framework and an Overview of Electoral Legislation, in: Voting from Abroad. The International IDEA Handbook. Stockholm, p. 65-76.

⁸ OSCE/ODHIR: Republic of Moldova, Early Parliamentary Elections 28 November 2010, Election Observation Mission Final Report, Warsaw, 26 January 2011, p. 7-8; Council of Europe, Parliamentary Assembly: Observation of the Early Parliamentary Elections in Moldova (28 November 2010), Doc. 12476, p. 5.

⁹ The 2002 Code specifies a number of conditions, such as age and nationality, which are not seen as unwarranted limitations of universal suffrage. See CDL-AD (2002) 23 rev, p. 14-15.

¹⁰ International Election Observation: Republic of Armenia – Parliamentary Elections, 6 May 2012. Statement of Preliminary Findings and Conclusions, p. 3; OSCE/ODHIR: Republic of Belarus, Presidential Election 19 December 2010, Election Observation Mission Final Report, Warsaw, 22 February 2011, p. 6; OSCE/ODHIR: Republic of Bulgaria, Presidential and Municipal Elections 23 and 30 October 2011, Election Observation Mission Final Report, Warsaw, 5 January 2012, p. 6.

¹¹ International Election Observation: Republic of Armenia – Parliamentary Elections, 6 May 2012. Statement of Preliminary Findings and Conclusions, p. 2; OSCE/ODHIR: Republic of Kazakhstan, Early Parliamentary Elections 15 January 2012, Election Observation Mission Final Report, Warsaw, 3 April 2012, p. 7.

¹² OSCE/ODHIR: Bosnia and Herzegovina, General Elections 3 October 2010, Election Observation Mission Final Report, Warsaw, 17 December 2010, p. 5; Council of Europe, Parliamentary Assembly: Observation of the General Elections in Bosnia and Herzegovina (3 October 2010), Doc. 12432.

¹³ CDL-AD (2006) 018, p. 14.

government institutions was insufficiently organised”¹⁴. In other countries a sizable amount of voters was registered not before the election day.¹⁵ Such “last-minute enrolment” should be avoided since it opens the door for (allegations of) election fraud.¹⁶ This concern is particularly relevant for out-of-country voting that can hardly be controlled by domestic observers. When, as in the 2010 election in Moldova, nearly all voters abroad are “added to supplementary lists on election day”¹⁷, such practice is highly suggestive of manipulation by the acting government.

12. The registration of candidates is an equally important issue since too restrictive candidacy requirements and/or their incorrect implementation may hinder citizens to make use of their passive electoral right. At some recent elections in CEE, international observers have received credible reports that candidates were directly intimidated or their supporters were put under pressure to withdraw their signatures from the relevant signature sheets.¹⁸ Another problem in this context refers to cases in which candidates have been denied registration for dubious reasons. In Kazakhstan, for instance, several candidates for the 2012 parliamentary election were de-registered because of alleged discrepancies in their tax declaration. But these persons were neither notified by the state authorities about the alleged inaccuracies nor were they given the opportunity for objection.¹⁹ Similarly, in Azerbaijan a number of citizens were not admitted to stand for the 2010 election because of “minor technical mistakes and without due consideration of the principle of proportionality of errors”²⁰. Although such practices cannot be completely eliminated by formal regulations, the relevant provisions should be scrutinized in order to clarify the relevant procedures, especially with regard to appeal proceedings (see also below point 5).

3. Election Campaign: Ensuring Equal Opportunities

13. In the run-up of democratic elections, all parties and candidates must be given equal opportunities for their individual campaign.²¹ The state authorities should ensure such “level playing field” by (a) assuring freedom of movement, expression and association; (b) securing equal treatment of parties and candidates with regard to public facilities and resources; and (c) providing for equal media access and neutral media information. In this regard, the legal provisions in CEE have also considerably improved over the last years. At the same time, implementing equal campaign conditions continues to be difficult in several countries.

14. Apart from open intimidation of opposition candidates that is still observed in some cases,²² there are also recurrent instances in which public facilities and resources are (mis)used to support the campaign of particular candidates or parties. A case in point is Belarus where members of the government administration used to serve on the president’s campaign team

¹⁴ Council of Europe, Parliamentary Assembly: Observation of the Parliamentary Elections in Armenia, 6 May 2012, Doc. 12937, p. 3; International Election Observation: Republic of Armenia – Parliamentary Elections, 6 May 2012. Statement of Preliminary Findings and Conclusions, p. 2.

¹⁵ See, for instance, OSCE/ODHIR: Ukraine, Presidential Election 7 January and 17 February 2010, Election Observation Mission Final Report, Warsaw, 28 April 2010, p. 2; OSCE/ODHIR: Azerbaijan, Parliamentary Elections 7 November 2010, Election Observation Mission Final Report, Warsaw, 25 January 2011, p. 8.

¹⁶ CDL-AD (2006) 018, p. 16.

¹⁷ OSCE/ODHIR: Republic of Moldova, Early Parliamentary Elections 28 November 2010, Election Observation Mission Final Report, Warsaw, 26 January 2011, p. 7-8; Council of Europe, Parliamentary Assembly: Observation of the Early Parliamentary Elections in Moldova (28 November 2010), Doc. 12476, p. 5.

¹⁸ See for example OSCE/ODHIR: Azerbaijan, Parliamentary Elections 7 November 2010, Election Observation Mission Final Report, Warsaw, 25 January 2011, p. 9-10.

¹⁹ OSCE/ODHIR: Republic of Kazakhstan, Early Parliamentary Elections 15 January 2012, Election Observation Mission Final Report, Warsaw, 3 April 2012, p. 11-12; Council of Europe, Parliamentary Assembly: Observation of the Early Parliamentary Elections in Kazakhstan (15 January 2012), Doc. 12884, p. 3-4.

²⁰ OSCE/ODHIR: Azerbaijan, Parliamentary Elections 7 November 2010, Election Observation Mission Final Report, Warsaw, 25 January 2011, p. 9-10; Council of Europe, Parliamentary Assembly: Observation of the Parliamentary Elections in Azerbaijan (7 November 2010), Doc. 12475.

²¹ CDL-AD (2002) 23 rev, p. 7; CDL-AD (2006) 018, p. 20ff.

²² See for example OSCE/ODHIR: Republic of Georgia, Parliamentary Elections 21 May 2008, Election Observation Mission Final Report, Warsaw, 9 September 2008, p. 12.

during working hours.²³ More widespread are infringements of the principle of campaign neutrality at regional or local level. In the 2012 Armenian elections, for example, “this included teachers being involved in campaign events during school hours [...] and the posting of campaign materials on schools and municipal buildings”²⁴.

15. A further challenge that applies to several countries is the impartial coverage of election contestants in the media. According to OSCE/ODHIR observation reports, in some countries, such as Georgia, private TV channels are particularly biased against certain candidates or parties;²⁵ in others, like Ukraine and Russia, it is primarily the state-owned broadcasting stations that fail to provide neutral and balanced information on the contestants – a practice that openly contradicts the legal requirements in these countries.²⁶ Interestingly enough, despite such obvious shortcomings most recent observation reports do not make detailed recommendations for improving the media regulations in the Election Codes. This might indicate that a more balanced and neutral media reporting can hardly be achieved by legal amendments only (see also section III. below).

4. Voting and Counting: Safeguarding Procedural Accuracy and Transparency

16. The procedures on election day – voting and vote counting – have to take place in an accurate and transparent manner. Concerning the polling procedure, the simultaneous implementation of the principles of equal and secret suffrage cannot be taken for granted, especially in the context of emerging democracies. One crucial challenge has been to avoid “multiple voting”, i.e. casting ballots in more than one place by the same persons. Therefore, electoral officers at the polling stations must precisely identify each elector and attentively monitor the casting of ballots. At the same time, the voting act itself has to be secret, i.e. “family voting and any other form of control by one voter over the vote of another must be prohibited” and “persons actually voting should not be published”²⁷.

17. According to these benchmarks, the polling practice in CEE seems to have considerably improved as compared to the situation described in the 2006 Report.²⁸ In many recent elections, international observers assessed the overall voting process as “good”. Only in few cases, such as in Bosnia and Herzegovina, breaches of the secrecy of the vote, family voting and proxy voting were mentioned in election reports.²⁹ However, the overall practice of vote counting still reveals serious shortcomings. In a number of recent elections, various infringements were observed that affected the integrity of the election process. These include instances of ballot box stuffing, tampering with results, unperformed reconciliation procedures and uncompleted or unpublished protocols of the election results.³⁰ Although the relevant legal

²³ OSCE/ODHIR: Republic of Belarus, Presidential Election 19 December 2010, Election Observation Mission Final Report, Warsaw, 22 February 2011, p. 10-11.

²⁴ International Election Observation: Republic of Armenia – Parliamentary Elections, 6 May 2012. Statement of Preliminary Findings and Conclusions, p. 2; Council of Europe, Parliamentary Assembly: Observation of the Parliamentary Elections in Armenia, 6 May 2012, Doc. 12937, p. 4.

²⁵ OSCE/ODHIR: Republic of Georgia, Parliamentary Elections 21 May 2008, Election Observation Mission Final Report, Warsaw, 9 September 2008, p. 15.

²⁶ OSCE/ODHIR: Ukraine, Presidential Election 7 January and 17 February 2010, Election Observation Mission Final Report, Warsaw, 28 April 2010, p. 2; Council of Europe, Parliamentary Assembly: Observation of the Presidential Election in the Russian Federation (4 March 2012), Doc. 12903, p. 5.

²⁷ CDL-AD (2002) 23 rev, p. 9.

²⁸ CDL-AD (2006) 018, p. 28-33.

²⁹ OSCE/ODHIR: Bosnia and Herzegovina, General Elections 3 October 2010, Election Observation Mission Final Report, Warsaw, 17 December 2010, p. 3; Parliamentary Assembly: Observation of the General Elections in Bosnia and Herzegovina (3 October 2010), Doc. 12432.

³⁰ See for example OSCE/ODHIR: Republic of Georgia, Parliamentary Elections 21 May 2008, Election Observation Mission Final Report, Warsaw, 9 September 2008, p. 3; OSCE/ODHIR: Azerbaijan, Parliamentary Elections 7 November 2010, Election Observation Mission Final Report, Warsaw, 25 January 2011, p. 3; OSCE/ODHIR: Republic of Belarus, Presidential Election 19 December 2010, Election Observation Mission Final Report, Warsaw, 22 February 2011, p. 3.

provisions seem to be quite solid and precise in most countries, the practice of vote counting is still in need of improvement.

18. A most recent tendency among the efforts to increase the transparency of the voting and counting procedures in CEE is the employment of new technologies. The Russian Federation seems to be a frontrunner in this respect.³¹ At the 2012 presidential elections, web cameras were installed in each polling station in order to record the polling and counting procedures. Furthermore, many polling stations were equipped with ballot scanners and touch-screen voting machines to ensure the election's integrity. However, these innovative practices met with quite ambivalent reactions. While some OSCE interlocutors considered them a useful tool for increasing transparency, others doubted whether such new technologies could really capture serious violations of the election law that took place outside the purview of the cameras. Furthermore, the use of "surveillance" technologies may potentially undermine the secrecy of the vote. As "any interested person could access the web cameras' live audiovisual feed on a special website"³², one might question if this practice runs counter to the stipulation of the 2002 Code that "the list of persons actually voting should not be published"³³. In Western democracies, privacy has become a highly sensible issue during the recent past. The further employment of new technologies at polling stations in CEE should thus be monitored attentively since the growing effectiveness in making electoral procedures more transparent might at the same time harm the principle of secret suffrage.

5. Election Appeal: Accessibility and Consequentiality of Review Procedures

19. Like any legal norm in a rule-of-law system, compliance with the electoral legislation must be open to challenge before a body of appeal.³⁴ This applies to potential irregularities of the entire electoral process, i.e. not only to the electoral outcome as such but also to all decisions taken before election day concerning the right to vote, electoral registers, candidacy, the campaign rules etc. In principal, there are different ways to organize the procedures for resolving electoral disputes: appeals might be brought either before the Electoral Commission or before a court, or the line of appeal authorities includes both kinds of institutions. Especially in emerging democracies, appeal regulations are critical for the legitimacy of elections. In order to strengthen the election's integrity, they should meet two fundamental requirements. First, election appeals should be accessible for any stakeholder (voters, candidates and political parties). This particularly implies that the competences of appeal bodies are precisely defined and the relevant procedures are designed in a transparent and easily understandable fashion. Second, the judicial review has to be consequential, i.e. appeal bodies should have the authority to annul the elections (whereby this annulment may not necessarily refer to the entire election outcome but also to parts of it). While the claim of consequentiality might be taken for granted from a normative rule-of-law perspective, it has been of utmost importance for the electoral practice in CEE countries. As the 2006 Report notes, "there is still a 'culture of impunity' for election-related offences. Of particular concern is the fact that election officials are seldom held legally or administratively accountable for electoral violations. (...) The relevant authorities' general failure to take measures against election violations undermined the credibility of, and public confidence in, elections of several countries."³⁵

20. Although there have been some improvements in this respect during the last years, the overall picture emerging from observer reports of recent elections gives reason for serious concern. Some countries, such as Kazakhstan, still lack clear and comprehensive provisions for

³¹ Cf. for the following OSCE/ODHIR: Russian Federation, Presidential Election 4 March 2012, Election Observation Mission Final Report, Warsaw, 11 May 2012, p. 7-9.

³² OSCE/ODHIR: Russian Federation, Presidential Election 4 March 2012, Election Observation Mission Final Report, Warsaw, 11 May 2012, p. 7.

³³ CDL-AD (2002) 23 rev, p. 9.

³⁴ See CDL-AD (2002) 23 rev, p. 29-31; CDL-AD (2006) 018, p. 36-38.

³⁵ CDL-AD (2006) 018, p. 38.

the resolution of electoral disputes.³⁶ In other countries, like Armenia, the former Yugoslav Republic of Macedonia and Ukraine, the procedures for electoral complaints and appeals may be simplified and/or clarified in various respects.³⁷ Even more widespread are instances where international observers noted serious shortcomings in the implementation of appeal procedures. Some citations of relevant reports might illustrate this finding: “The CEC did not discuss the substance of complaints, disregarded the credibility of alleged irregularities and took a formalistic approach when dealing with many complaints” (Azerbaijan 2010);³⁸ “many decisions and judgments included flawed evaluation of the evidence and lacked sound and thorough factual-legal reasoning” (Georgia 2008);³⁹ “the process of resolving complaints filed on election day was characterized by an inconsistent application of the law and CEC regulations” (Russia 2012).⁴⁰

21. Thus, concerning the fifth challenge examined here we cannot but join the relevant conclusion of the 2006 Report: “There is still a lot to do in order to improve election complaints and appeal procedures and to reverse the culture of impunity for election-related offences.”⁴¹

III. Conclusions

22. This paper could not provide an exhaustive documentation of administrative and procedural shortcomings in CEE elections. Rather, it has concentrated on recurrent challenges within five major fields of the electoral process that are crucial for the implementation of democratic suffrage. In comparison with the situation described in the 2006 Report, considerable improvements of the electoral practice could be observed in nearly all fields under scrutiny. The most critical challenge in this regard is the establishment of an accessible and effective system of election appeal across the region. Furthermore, there are various problems in individual countries concerning the election administration, the registration of voters and candidates, the campaigning and/or the voting and counting procedures. Given the difficult historical preconditions for democracy and rule of law in CEE, such persistent irregularities in the electoral practice do not come as a surprise. At the same time, they indicate the demand for further debate and reform.

23. The various observation reports cited in this paper suggest that essential improvements of electoral processes require not only further time but also a more differentiated approach. Of course, some of the shortcomings discussed above may be remedied by legal amendments. Relevant examples include election appeal procedures and the regulations on voting from abroad. On the other hand, legal reforms are no panacea: as the 2006 Report truly states, several electoral laws in CEE have been characterized by an abundant wealth of details; this kind of over-regulation may have a negative effect on electoral transparency and

³⁶ OSCE/ODHIR: Republic of Kazakhstan, Early Parliamentary Elections 15 January 2012, Election Observation Mission Final Report, Warsaw, 3 April 2012, p. 17; Council of Europe, Parliamentary Assembly: Observation of the Early Parliamentary Elections in Kazakhstan (15 January 2012), Doc. 12884, p. 4-5.

³⁷ Council of Europe, Parliamentary Assembly: Observation of the Parliamentary Elections in Armenia, 6 May 2012, Doc. 12937, p. 4; OSCE/ODHIR: The Former Yugoslav Republic of Macedonia, Early Parliamentary Elections 5 June 2011, Election Observation Mission Final Report, Warsaw, 6 October 2011, p. 22; Council of Europe, Parliamentary Assembly: Observation of the Early Parliamentary Elections in “the former Yugoslav Republic of Macedonia” (5 June 2011), Doc. 12643; OSCE/ODHIR: Ukraine, Presidential Election 7 January and 17 February 2010, Election Observation Mission Final Report, Warsaw, 28 April 2010, p. 27.

³⁸ OSCE/ODHIR: Azerbaijan, Parliamentary Elections 7 November 2010, Election Observation Mission Final Report, Warsaw, 25 January 2011, p. 3; see also Council of Europe, Parliamentary Assembly: Observation of the Parliamentary Elections in Azerbaijan (7 November 2010), Doc. 12475.

³⁹ OSCE/ODHIR: Republic of Georgia, Parliamentary Elections 21 May 2008, Election Observation Mission Final Report, Warsaw, 9 September 2008, p. 3.

⁴⁰ OSCE/ODHIR: Russian Federation, Presidential Election 4 March 2012, Election Observation Mission Final Report, Warsaw, 11 May 2012, p. 20-21; see also Council of Europe, Parliamentary Assembly: Observation of the Presidential Election in the Russian Federation (4 March 2012), Doc. 12903.

⁴¹ CDL-AD (2006) 018, p. 38.

effectiveness.⁴² Thus, one should examine for each problem if “practical” measures – e.g. voter education or training programmes for administrative personnel – could provide more effective solutions than legal reform. Last but not least, some widespread irregularities – such as unfair campaigning and biased media reporting – are often not caused by insufficient regulation but rather by the unwillingness of political key players to secure a level playing field for all candidates. Such behaviour might only be changed in the long run, by thorough monitoring of the election process and continuous debates with relevant stakeholders. In any case, observation missions based on international standards of good electoral practice will remain an important element for further improving the electoral practice in CEE.

⁴² CDL-AD (2006) 018, p. 5.