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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

COMPILATION

OF VENICE COMMISSION OPINIONS AND REPORTS

CONCERNING ELECTION DISPUTE RESOLUTION¹

¹ This document will be updated regularly. This version contains all opinions and reports adopted up to and including the Venice Commission's 111th Plenary Session (16-17 June 2017).

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1. Introduction

The present document is a compilation of extracts taken from opinions and reports/studies adopted by the Venice Commission on issues concerning election dispute resolution. The scope of this compilation is to give an overview of the doctrine of the Venice Commission in this field.

This compilation is intended to serve as a source of references for drafters of constitutions and of legislation relating to election dispute resolution. This compilation is also intended to researchers and the Venice Commission's members who are requested to prepare comments and opinions on such texts. However it should not prevent members from introducing new points of view or diverge from earlier ones, if there is good reason for doing so. The compilation therefore provides a frame of reference.

This compilation is structured in a thematic manner in order to facilitate access to the topics dealt with by the Venice Commission over the years.

Each opinion referred to in the present document relates to a specific country and any recommendation made has to be seen in the specific constitutional and legal context of that country. This is not to say that such recommendations cannot be of relevance for other systems as well.

The Venice Commission's reports and studies quoted in this compilation seek to present general standards for all members and observer states of the Venice Commission. Recommendations made in the reports and studies will therefore be of a more general application, although the specificity of national/local situations is an important factor and should be taken into account adequately.

The brief extracts from both opinions and reports/studies presented here must be seen in the context of the original text adopted by the Venice Commission from which it has been taken. Each citation therefore has a reference that sets out its exact position in the opinion or report/study (paragraph number, page number for older opinions), which enables the reader to find it in the corresponding opinion or report/study. In order to avoid redundant citations from various opinions, this compilation regularly refers to other citations without quoting extensively the paragraphs and recommendations dealing with the issue of election dispute resolution.

The Venice Commission's position on a given topic may change or develop over time as new opinions are prepared and new experiences acquired. Therefore, in order to have a full understanding of the Venice Commission's position, it would be important to read the entire compilation under a particular theme. Please kindly inform the Venice Commission's Secretariat if you think that a quote is missing, superfluous or filed under an incorrect heading (venice@coe.int).

2. International standards

3.3. An effective system of appeal

a. The appeal body in electoral matters should be either an electoral commission or a court. For elections to Parliament, an appeal to Parliament may be provided for in first instance. In any case, final appeal to a court must be possible.

b. The procedure must be simple and devoid of formalism, in particular concerning the admissibility of appeals.

c. The appeal procedure and, in particular, the powers and responsibilities of the various bodies should be clearly regulated by law, so as to avoid conflicts of jurisdiction (whether positive or negative). Neither the appellants nor the authorities should be able to choose the appeal body.

d. The appeal body must have authority in particular over such matters as the right to vote – including electoral registers – and eligibility, the validity of candidatures, proper observance of election campaign rules and the outcome of the elections.

e. The appeal body must have authority to annul elections where irregularities may have affected the outcome. It must be possible to annul the entire election or merely the results for one constituency or one polling station. In the event of annulment, a new election must be called in the area concerned.

f. All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections.

g. Time-limits for lodging and deciding appeals must be short (three to five days for each at first instance).

h. The applicant's right to a hearing involving both parties must be protected

i. Where the appeal body is a higher electoral commission, it must be able ex officio to rectify or set aside decisions taken by lower electoral commissions.

92. If the electoral law provisions are to be more than just words on a page, failure to comply with the electoral law must be open to challenge before an appeal body. This applies in particular to the election results: individual citizens may challenge them on the grounds of irregularities in the voting procedures. It also applies to decisions taken before the elections, especially in connection with the right to vote, electoral registers and standing for election, the validity of candidatures, compliance with the rules governing the electoral campaign and access to the media or to party funding.

93. There are two possible solutions:

- appeals may be heard by the ordinary courts, a special court or the constitutional court;
- appeals may be heard by an electoral commission. There is much to be said for this latter system in that the commissions are highly specialised whereas the courts tend to be less experienced with regard to electoral issues. As a precautionary measure, however, it is desirable that there should be some form of judicial supervision in place, making the higher commission the first appeal level and the competent court the second.

94. Appeal to parliament, as the judge of its own election, is sometimes provided for but could result in political decisions. It is acceptable as a first instance in places where it is long established, but a judicial appeal should then be possible.

97. It is also vital that the appeal procedure, and especially the powers and responsibilities of the various bodies involved in it, should be clearly regulated by law, so as to avoid any positive or negative conflicts of jurisdiction. Neither the appellants nor the authorities should be able to choose the appeal body. The risk that successive bodies will refuse to give a decision is seriously increased where it is theoretically possible to appeal to either the courts or an electoral commission, or where the powers of different courts – e.g. the ordinary courts and the constitutional court – are not clearly differentiated.

100. The appeal procedure should be of a judicial nature, in the sense that the right of the appellants to proceedings in which both parties are heard should be safeguarded.

CDL-AD(2002)023rev2, Code of Good Practice in Electoral Matters

For referendums, see also similar provisions in CDL-AD(2007)008rev, Code of Good Practice on Referendums, part 3.3

59. The effectiveness of the judicial procedure depends mainly on two indicators: time-limit for the court to decide on the matter brought before it and regulation on the presentation of evidence.

CDL-AD(2009)054, Report on the cancellation of election results

111. [...] [I]n order to comply with international standards, this process should clearly provide the following for voters, candidates, and political parties:

- The right to file a complaint to protect suffrage rights
- The right to present evidence in support of the complaint
- The right to a public hearing on the complaint
- The right to a fair hearing on the complaint
- The right to an impartial tribunal to decide the complaint
- The right to transparent proceedings on the complaint
- The right to an effective remedy
- The right to a speedy remedy
- The right to appeal to an appellate court if a remedy is denied.

CDL-AD(2004)027, Joint Recommendations on the Electoral Law and the Electoral Administration in Moldova

8. [...] Once the elections have been held, and even during the election day, all the constitutional or legal rules (and, most particularly, those relating to the system of appeals and complaints) are based on specific circumstances, in which all candidates and citizens have to receive equal treatment.

CDL-AD(2006)025, Report on the Participation of Political Parties in Elections

70. The Electoral Code must include provisions on legal remedies that are in accordance with international standards and good practice in electoral matters. The legal rights for complaints and appeals by the candidates, by the voters and other participants in elections against the decisions concerning their rights must be precisely prescribed and guaranteed by the Code.

CDL-AD(2006)028, Joint Opinion on the Electoral Legislation of the Republic of Belarus

53. The principle of “fair elections” (Article 10) shall ensure equal legal conditions to all election participants. “Fair elections” should guarantee (Article 10, paragraph 2) [*Convention on the standards of democratic elections, electoral rights and freedoms in the Commonwealth of Independent States (CDL-EL(2006)031rev*)]:

[...]

f) prompt and effective adjudication of complaints about violations of electoral rights and freedoms (Article 16).

67. Article 16 includes a more programmatic provision on complaints about and responsibility for violation of electoral rights and freedoms of citizens. In the event of violation of the standards of democratic elections, electoral rights and freedom of citizens according to this Convention [*Convention on the standards of democratic elections, electoral rights and freedoms in the Commonwealth of Independent States (CDL-EL(2006)031rev*)] the injured person(s) shall have the right and possibility to complain about the violation and have the violated rights restored by courts and election bodies (paragraph 1). Persons guilty of unlawful actions (omissions) shall bear responsibility in accordance with law (paragraph 2). Electoral Documentation - as a precondition for effective control of the electoral process - is provided for in Article 17. These provisions stand in a clear contrast to the detailed previous 15 articles of the Convention. However, without proper rules on complaints and appeals, electoral law is just *lex imperfecta*; the importance of the issue must therefore be underlined.

CDL-AD(2007)007, Opinion on the Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States

21. According to paragraph 5.10 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE (Copenhagen Document), “everyone” should “have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”. Respect for fundamental rights as well as legal integrity make it imperative that an ultimate recourse to a court should be available to citizens. Fundamental rights cannot be left solely to administrative discretion; administrative or parliamentary decisions alone cannot provide for a legally satisfactory process. Indeed citizens should have access to “national” judicial remedies before being driven to apply to the European Court of Human Rights in Strasbourg.

22. The Document of the Moscow meeting of the Conference on the Human Dimension of the OSCE in section (18) recalls the participating States’ commitment to the rule of law and provides for different aspects of effective remedy, including judicial review of administrative regulations and decisions:

“(18.2) Everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.

(18.3) To the same end, there will be effective means of redress against administrative regulations for individuals affected thereby.

(18.4) The participating States will endeavour to provide for judicial review of such regulations and decisions.”

CDL-AD(2010)046, Joint opinion on the electoral legislation of Norway

55. [...] The 1990 OSCE Copenhagen Document underlines that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.” The Code of Good Practice in Electoral Matters underlines that the judicial supervision should at least apply to decisions on “right to vote, electoral registers and standing for election, the validity of candidatures, compliance with the rules governing the electoral campaign and access to the media or to party funding.” It is therefore recommended that a final appeal to a court be made available more broadly.

CDL-AD(2011)013, Joint opinion on the election code of Bulgaria

110. [...] The CEC’s failure to adequately address complaints is of particular concern as the right to receive an effective remedy is provided for in Paragraph 5.10 of the 1990 OSCE Copenhagen Document and Paragraph 18.2 of the 1991 OSCE Moscow Document. An effective remedy is also required by Article 2 of the International Covenant on Civil and Political Rights and Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. [...]

CDL-AD(2011)025, Joint opinion on the draft law on presidential and parliamentary elections, the draft law on elections to local governments and the draft law on the formation of election commissions of the Kyrgyz Republic

3. Competent bodies

3.3. An effective system of appeal

a. The appeal body in electoral matters should be either an electoral commission or a court. For elections to Parliament, an appeal to Parliament may be provided for in first instance. In any case, final appeal to a court must be possible.

92. If the electoral law provisions are to be more than just words on a page, failure to comply with the electoral law must be open to challenge before an appeal body. This applies in particular to the election results: individual citizens may challenge them on the grounds of irregularities in the voting procedures. It also applies to decisions taken before the elections, especially in connection with the right to vote, electoral registers and standing for election, the validity of candidatures, compliance with the rules governing the electoral campaign and access to the media or to party funding.

93. There are two possible solutions:

- appeals may be heard by the ordinary courts, a special court or the constitutional court;
- appeals may be heard by an electoral commission. There is much to be said for this latter system in that the commissions are highly specialised whereas the courts tend to be less experienced with regard to electoral issues. As a precautionary measure, however, it is desirable that there should be some form of judicial supervision in place, making the higher commission the first appeal level and the competent court the second.

94. Appeal to parliament, as the judge of its own election, is sometimes provided for but could result in political decisions. It is acceptable as a first instance in places where it is long established, but a judicial appeal should then be possible.

CDL-AD(2002)023rev2, Code of Good Practice in Electoral Matters

168. Due to different legal and political traditions, a variety of procedures are used in the solution of election disputes. In many established democracies in Western Europe (like France, Germany, Italy, or the United Kingdom) election appeals are heard by ordinary administrative and judicial bodies operating under special procedures. In contrast, in most emerging and new democracies in Central and Eastern Europe (and in other regions of the world), the responsibility for deciding on election complaints and appeals is shared between independent electoral commissions and ordinary courts. In several countries, mostly outside Europe, special electoral courts are responsible for resolving election disputes. Although there is no single “best” method suitable for all countries, several issues are open to debate.

170. Especially with dual complaint and appeal procedures, which involve electoral commissions and ordinary courts, the electoral law should clearly regulate the respective powers and responsibilities so that a conflict of jurisdiction can be avoided. Neither the appellants nor the authorities should be able to choose the appeal body (see CDLAD(2002)023rev2, II.3.3.c. and para. 97). Thus, the possibility of concurrent complaints procedures is avoided. Furthermore, it should be clear which bodies act as first instance fact-finding bodies and which bodies act as appellate review bodies. Nevertheless, in a number of elections, inappropriate provisions generated confusion over the jurisdiction of electoral commissions and courts to deal with election complaints and appeals. [...]

CDL-AD(2006)018, Report on Electoral Law and Electoral Administration in Europe -Synthesis study on recurrent challenges and problematic issues

31. In most countries the decisions on certifying the electoral results are taken by central electoral bodies or district electoral bodies. Such is the case in Albania, Armenia, Austria, Bosnia and Herzegovina, Croatia, the Czech Republic, Estonia, Finland, Georgia, Hungary, Korea, Latvia, Lithuania, Malta, Portugal, Romania, the Russian Federation, Serbia, Slovakia, Sweden and “the former Yugoslav Republic of Macedonia”. The returning officer (part of the electoral administration) is entitled to certify the results in Cyprus and in the United Kingdom.

32. In the Netherlands the central electoral body certifies the results but a final decision is made by the Parliament. In Belgium the results are certified by the corresponding house of Parliament, which is also entitled to examine the complaints. Parliament is the decision-making body also in Liechtenstein, Luxembourg and Switzerland. In Germany the competence for certification of electoral results is vested in a parliamentary committee.

33. There are countries where judicial bodies are involved in the certification procedure even without any complaints. A court has to certify the results in Azerbaijan, Bulgaria and Moldova.

34. In Turkey the electoral results are also certified by a body of judicial nature, the Supreme Board of Elections, whose members are selected from amongst the judges by the General Assembly of the Court of Cassation and by the General Assembly of the Council of State (highest administrative court). This body is also a central body for the administration of elections and considers the complaints on the results of elections as a last instance.

35. In France, the electoral administration has no power to declare the elections invalid or to cancel the results, but it has the power to ask the appropriate judicial bodies to decide on such an issue. Otherwise, the declaration of election results by administrative bodies is followed by a time-limit to introduce complaints. In presidential elections the competent judicial body certifies the results after the time-limit has passed and complaints have been reviewed.

36. In most countries, judicial bodies are involved in the certification or cancellation of electoral results only on the basis of complaints or appeals. Such is the case in Albania, Armenia, Austria, Bosnia and Herzegovina, Croatia, Cyprus, the Czech Republic, Estonia, Finland,

Georgia, Germany, Hungary, Korea, Latvia, Liechtenstein, Malta, Portugal, the Russian Federation, Serbia, Slovakia, Sweden, Switzerland and the United Kingdom.

37. In Lithuania, complaints may be addressed to the Parliament or the President of the Republic, who may submit the complaint to the Constitutional Court.

38. Courts are not involved in the decision-making on the electoral disputes in Belgium, Luxembourg and Romania. Disputes in judicial bodies on the cancellation of electoral results are not allowed either in the Netherlands.

39. The competent courts to review the complaints or appeals in matters concerning the certification of electoral results are in most countries constitutional courts. Such is the case in Armenia, Austria, Azerbaijan, Bulgaria, Cyprus, the Czech Republic (as a second instance; in the first instance, it is the Supreme Administrative Court), Estonia, Germany, Liechtenstein, Lithuania, Malta (on some issues also ordinary courts), Portugal and Slovakia.

40. In many countries such disputes are considered in ordinary courts. Such is the case in Finland (regional administrative courts in first instance and Supreme Administrative Court in second instance), Georgia (ordinary courts of law; the appeal court's decision is final, though in constitutionality issues a way to the Constitutional Court is also open), Hungary (Supreme Court), Latvia (Supreme Court), Russian Federation (Supreme Court), Serbia (Supreme Court), Switzerland (Federal Court as the last instance), "the former Yugoslav Republic of Macedonia"(administrative courts) and Korea (Supreme Court). In France, the Conseil constitutionnel and the Conseil d'Etat are competent depending on the issue raised and the elections concerned. In Bosnia and Herzegovina, the competence to discuss the appeals is vested in the Appellate Division of the Court of Bosnia and Herzegovina.

41. Special electoral courts are set up in Albania – the Electoral Chamber near the Court of Appeal of Tirana -, in Greece (Supreme Special Court) and in the United Kingdom (Election Court). In Sweden the appeals are considered by the Election Review Board.

48. The procedure before the administrative bodies is usually more accessible for voters, the complaints have to be introduced faster than before courts (if the time-limit for the presentation of an appeal to the court is short, it is short also for the presentation of objections before central electoral bodies). In many countries the electoral bodies have to collect evidence *ex officio*.

CDL-AD(2009)054, Report on the cancellation of election results

54. The code should make it clear that, once a complaint has been made to an electoral commission, the commission (including the CEC) must consider the complaint. It should be clear that electoral commissions do not have the power to refuse to consider a properly made complaint and refer it to a court. The court considering a complaint should not only have the power to quash the decision of an electoral commission but also to order the electoral commission to comply with its duties under the code.

CDL-AD(2003)015, Joint Final Assessment of the Electoral Code of the Republic of Azerbaijan

50. Significantly, in many new democracies, the appeals review by the electoral administration bodies follows a single hierarchical line and is used before any appeal to the courts. Within the electoral administration, the superior election administration body, e.g. the CEC, therefore takes final administrative decisions about electoral complaints. In some countries, an appeal lies from decisions of the CEC to a court, but in general only to a special court, the Constitutional Court

or the Supreme Court. An alternative approach would be that all electoral appeals may be dealt with by the judicial system. Such an approach, however, may only be a reasonable option in countries where there is great confidence in the professionalism and independence of the judicial system. In such a case, it would be important for an appeal to lie from the decisions of lower courts to higher courts. The Armenian Electoral Code seems to mix the appeal procedures. A complaint against a decision of an election commission may be lodged with a higher level election commission or with the Court of First Instance with jurisdiction over the election commission making that decision. Decisions of Courts of First Instance are not subject to further judicial review in Armenia. The Electoral Code should be amended to provide clear and consistent complaint and appeal procedures and to avoid any conflicts of jurisdiction (...).

51. Appeal of court decisions. Even if the current appeal system is maintained, it must be guaranteed that electoral appeals are decided consistently throughout the country. At the moment, it is problematic that almost all decisions of election commissions can be appealed to a court of first instance only, but no further. Since decisions of the courts of first instance cannot be appealed across the country, there is the risk that the electoral law may not be applied consistently. [...]

CDL-AD(2003)021, Joint Recommendations on the Electoral Law and the Electoral Administration in Armenia

3. The OSCE/ODIHR report makes the following two recommendations regarding the system of electoral dispute resolution of Norway:

- "It is recommended that consideration be given to providing the legal right to appeal, with regard to all election related matters and election results, to a competent court as the final authority on all election matters, in line with OSCE commitments and international good practice.
- Consideration could be given to setting specific expedited time limits for the adjudication of election related complaints and appeals by all relevant authorities including courts, the National Election Committee (NEC) and Parliament, in order to be fully consistent with paragraph 5.10 of the Copenhagen Document. Paragraph 5.10 reads: Everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity."

12. The Constitution states that the final validation of the parliamentary elections is within the competence of newly elected parliament itself. It decides whether the election of members to the parliament was valid, in effect giving it the final authority to decide on any aspect of the election. The law does not provide a right to appeal to a court of law against the decision of the parliament on the validation of an election.

13. In the course of its review, the parliament ensures that any errors are corrected that may impact on the election results. This might, for example, take the form of a recount of ballot papers, a new allocation of seats or return of members. The parliament may also declare results in a municipality or county invalid and order a new vote if an error has been committed that is deemed to influence the outcome of the election. The law does not provide for the possibility to appeal to a court of law the decision to annul results and order a new vote.

20. The United Nations Human Rights Committee, General Comment No. 32 suggests that election commissions, the administrative body most often involved in the electoral process, may not meet the criteria established for a judicial body. This is because an election commission fulfils an executive function when it administers elections. Additionally, it is unlikely that an election commission would appear impartial to the reasonable observer given their role in the electoral process. Therefore, while election management bodies (and other administrative bodies) may play a role in the resolution of election disputes, administrative remedies alone

cannot be considered sufficient, requiring access to a judicial tribunal at some point of proceedings.

38. While the Venice Commission has concluded that “the number of countries not providing a final appeal to court is small”, it is clear that the practice still exists in Europe. One can however see a prevailing tendency towards interpreting the theory of the separation of powers to mean that the adjudication of disputes, even in electoral matters, should ultimately be within the jurisdiction of the Courts. The legislative organs will still retain the right to regulate their own procedures and disciplinary measures, and in certain cases co-option, as long as there remains a final judicial appeal mechanism in the electoral process.

39. In many European countries (including Austria, Cyprus, Finland, France, Germany, Greece, Liechtenstein, Malta, Sweden, Switzerland, and the United Kingdom) where the judiciary is involved in electoral dispute resolution there are no shortened time limits for reaching a final decision. In Austria, challenges to violations of electoral rights during an election are permitted only to the extent that they are based on general regulatory and legal controls and addressed according to the regular timelines and procedures prescribed in the law. In France it is not uncommon for a court to take one year to resolve a complaint. In Germany the procedure allows for most complaints to be heard only after an election and some cases have extended to the point that they remained pending even after subsequent elections of the Bundestag. Thus one can conclude that it is not a consistent practice in Europe to institute shorter time limits for electoral cases.

40. There are States that create separate structures for the hearing of electoral disputes as a means to ensure timely remedy. As mentioned in the section above, in the United Kingdom ad-hoc “election courts” are formed when a petition is issued. Such specialised courts are formed only when a complaint is made, and focus only on elections without being distracted by other cases.

41. In Mexico, in order to ensure effective resolution of electoral disputes, a special permanent court structure was created in 1996, with the same guarantees of independence and immovability as ordinary courts, to deal with electoral questions and complaints. The Electoral Tribunal of the Federal Judiciary acts on electoral disputes both at the first and second instance, with the benefit of specialisation and lack of distraction by urgent non-electoral cases.

45. Allowing for final appeal on all electoral complaints can be achieved through various approaches: by using for appeals relevant bodies from the existing court structure, as is the case in Switzerland; by using an ad-hoc system of judicial bodies for all stages of the complaints and appeals process, as is the case in the United Kingdom; or by creating a standing specialised legal structure for complaints, as in Mexico. But international standards and commitments call for the final right of appeal to a court from decisions on all electoral matters made by the National Election Committee and Parliament of Norway, in the case of national elections, or the Ministry, in the case of local elections.

CDL-AD(2010)046, Joint opinion on the electoral legislation of Norway

15. Paragraph 6 [...] on complaints and appeals introduces a system where complaints can be dealt with by electoral commissions or courts of law. It is difficult to understand the practical reasons for these alternative solutions which obviously could lead to confusion, overloading of commissions and courts with repetitive claims and contradictory decisions unless the whole system is governed by courts. The higher election commission should in principle have the power to decide whether a violation has taken place and only in cases when the higher election commission fails to do so the appeal could be submitted to the court. [...]

CDL-AD(2010)047, Opinion on the draft election code of the Verkhovna Rada of Ukraine

57. [...] [E]lection results may be challenged either before the Constitutional Court (for national or European elections) or the relevant administrative court (for municipal elections). With regard to national and European elections, Article 150(1) of the Constitution confers the right to initiate proceedings before the Constitutional Court upon a few institutions. [...]

CDL-AD(2011)013, Joint opinion on the election code of Bulgaria

117. [...] Allowing higher election commissions to rectify or set aside ex officio decisions taken by lower election commissions is in conformity with international standards, but such rules should be applied systematically and not in a selective manner.

125. The Commission recommends strengthening and streamlining the electoral appeal system. The concentration of complaints before electoral commissions, followed by an appeal to ordinary administrative courts, would help the efficiency and specialisation of the appeal system. Moreover, procedural safeguards should also be put in place to ensure that complaints do not go unanswered or are summarily dismissed.

CDL-AD(2012)002, Opinion on the Federal Law on the election of the Deputies of the State Duma of the Russian Federation

98. [...] First, determining the substantive nature of the complaint is necessary as the nature of the complaint determines where the complaint should be filed. However, as many electoral complaints may have overlapping issues and may involve the conduct of an election commission as well as that of a candidate or political party, alternative forums for filing are presented to the complainant. [...]

CDL-AD(2013)016, Joint Opinion on the Draft Amendments to the Laws on election of people's deputies and on the Central Election Commission and on the Draft Law on repeat elections of Ukraine

66. The OSCE/ODIHR final report on the 2012 parliamentary elections stated: "A significant number of complaints were rejected on procedural grounds, such as being filed with the wrong body". Something is fundamentally wrong when complainants cannot determine the correct body for filing a complaint. In order to address this fundamental issue, and in light of current structural restraints in the Ukrainian legal system, the Venice Commission and the OSCE/ODIHR make two recommendations, both of which are found in the Venice Commission Code of Good Practice in Electoral Matters: (1) providing special forms for complainants to complete when filing a complaint or appeal (with instructions to the complainant where to file the complaint or appeal) and (2) adoption of simplified filing procedures to reduce the observed 2012 occurrence of "a significant number of complaints [being] rejected on procedural grounds,

such as being filed with the wrong body". At first instance, electoral complaints should be handled by electoral commissions, and, in a second instance, they should be handed by courts. No change in the Constitution is needed in this respect; the recommendations call for a simplification and a clarification of the relevant rules in order to achieve a more efficient and effective electoral complaints and appeals procedure.

CDL-AD(2013)026, Joint Opinion on Draft Amendments to Legislation on the Election of People's Deputies of Ukraine

4. Conflicts of jurisdiction

3.3. An effective system of appeal

[...]

c. The appeal procedure and, in particular, the powers and responsibilities of the various bodies should be clearly regulated by law, so as to avoid conflicts of jurisdiction (whether positive or negative). Neither the appellants nor the authorities should be able to choose the appeal body.

97. It is also vital that the appeal procedure, and especially the powers and responsibilities of the various bodies involved in it, should be clearly regulated by law, so as to avoid any positive or negative conflicts of jurisdiction. Neither the appellants nor the authorities should be able to choose the appeal body. The risk that successive bodies will refuse to give a decision is seriously increased where it is theoretically possible to appeal to either the courts or an electoral commission, or where the powers of different courts – e.g. the ordinary courts and the constitutional court – are not clearly differentiated.

CDL-AD(2002)023rev2, Code of Good Practice in Electoral Matters

120. It is recommended that the provisions setting out the election day complaint and appeal procedures be simplified and clarified. The Election Code should not allow complainants to have a choice as to which election commission to submit a complaint – it should clearly provide to which one body the complaint is to be submitted.

CDL-AD(2009)001, Joint Opinion on the Election Code of Georgia as revised up to July 2008

15. Paragraph 6 [...] on complaints and appeals introduces a system where complaints can be dealt with by electoral commissions or courts of law. It is difficult to understand the practical reasons for these alternative solutions which obviously could lead to confusion, overloading of commissions and courts with repetitive claims and contradictory decisions unless the whole system is governed by courts. The higher election commission should in principle have the power to decide whether a violation has taken place and only in cases when the higher election commission fails to do so the appeal could be submitted to the court. [...]

CDL-AD(2010)047, Opinion on the draft election code of the Verkhovna Rada of Ukraine

111. Articles 44 and 45 of the draft national elections law fail to establish a uniform and consistent process for protecting suffrage rights. Articles 44 and 45 create the option of filing a complaint with either an election commission or a court, which creates the possibility for a party to file a complaint in a "favourable" forum as opposed to legally pre-established forum. This possibility – to file in different forums – could also lead to inconsistency in decisions. As

uniformity and consistency in decisions is important, The Venice Commission and OSCE/ODIHR recommend that challenges to decisions be filed in only one forum designated by the law – either a court or higher election commission. If the forum designated by the law is an election commission, then the Code must provide that the right to appeal to a court is available after exhaustion of the administrative process.

CDL-AD(2011)025, Joint opinion on the draft law on presidential and parliamentary elections, the draft law on elections to local governments and the draft law on the formation of election commissions of the Kyrgyz Republic

114. The possibility for the applicant to choose between various appeals bodies, and in particular between election commissions and courts, may lead to forum shopping. The Commission recommends therefore abolishing this possibility of choice.

CDL-AD(2012)002, Opinion on the Federal Law on the election of the Deputies of the State Duma of the Russian Federation

120. Electoral complaints procedures are in accordance with international standards only if the powers and responsibilities of the various bodies are clearly regulated by law, so as to avoid conflicts of jurisdiction (whether positive or negative). Neither the appellants nor the authorities should be able to choose the appeal body.

121. The provisions of, inter alia, Article 68 paras 1, 4 and 5 (see also, e.g., Article 87(9)), which provide that decisions and (or) actions (inactions) of election commissions and their officials, which violate electoral rights of electoral process subjects, can be appealed in the superior election commission or in court, are clearly not in conformity with the mentioned standard. The quoted provisions not only create the possibility to choose between the superior election commission and the court but also the risk that the complaints will be submitted to both forums at the same time.

CDL-AD(2014)019, Joint Opinion on the draft Election Law of the Kyrgyz Republic

5. Standing

5.1. General

3.3. An effective system of appeal

[...]

f. All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections.

98. Disputes relating to the electoral registers, which are the responsibility, for example, of the local administration operating under the supervision of or in co-operation with the electoral commissions, can be dealt with by courts of first instance.

99. Standing in such appeals must be granted as widely as possible. It must be open to every elector in the constituency and to every candidate standing for election there to lodge an appeal. A reasonable quorum may, however, be imposed for appeals by voters on the results of elections.

CDL-AD(2002)023rev2, Code of Good Practice in Electoral Matters

49. The answer to the question on who has the right to appeal the electoral results before judicial bodies and request cancellation of election results shows how open the way to the court is. The right to vote and the right to be elected are guaranteed by the possibility to apply to the competent court. In case the elections are carried out unlawfully the individual constitutional right to vote or to be elected is violated. Such right should be protected by individual complaint, though it might not always lead to the cancellation of election results. The cancellation of election results is not necessary if the violations of electoral law are at small scale and do not influence the electoral results (the list of members of the legislative body).

CDL-AD(2009)054, Report on the cancellation of election results

27. [...] Considering that the conduct of an election requires prompt decisions and actions within a predetermined timeframe, the procedures governing election disputes should be different from those provided for general civil disputes. This could be reflected in shorter deadlines and a single appeal process, which can be justified as long as sufficient time is provided to file complaints and appeals. When setting time limits a balance should be struck between imperatives relating to the administration of justice in a timely manner within the electoral timeframe and the right to challenge decisions, actions or omissions of the electoral bodies in the fulfilment of their mandate. In particular, time limits should allow courts and electoral bodies sufficient time to process, review and make decisions upon the complaints and appeals submitted to them. The fact that some complaints or appeals, especially those related to election funding or campaigning, may require further investigation should also be taken into consideration. For each phase or facet of the electoral process (such as voter registration or the validity of candidatures), the electoral law should expressly and systematically set deadlines for filing complaints and appeals and by which either the courts or electoral bodies must reach a decision (paragraphs D 19, 20, 21, 23).

CDL-AD(2010)046, Joint opinion on the electoral legislation of Norway

58. Furthermore, the Code does not allow election results to be disputed by voters but only by political parties, coalitions and candidates (through the institutions listed under Article 150(1) of the Constitution). These restrictions are not in accordance with good electoral practice. All candidates and voters registered in the constituency concerned must be entitled to contest the election results. The right to vote is as important in a democratic state as the right to be elected. Allowing a wide range of persons to appeal decisions concerning elections protects the legality of the elections. As it is possible to consider similar appeals together, the workload of courts after elections should not be affected. The Venice Commission explained in its Report on the Cancellation of Election Results that “[...] [in] case the elections are carried out unlawfully the individual constitutional right to vote or to be elected is violated. Such right should be protected by individual complaint, though it might not always lead to the cancellation of election results. The cancellation of election results is not necessary if the violations of electoral law are at small scale and do not influence the electoral results [...]”

CDL-AD(2011)013, Joint opinion on the election code of Bulgaria

5.2. Political parties

34. The Law does not indicate if there is a possibility for an excluded candidate to appeal against the decision of a party congress. [...] The CEC does not have powers to check if the procedure in respect of (a) candidate(s) was in conformity with the party's statute. In the

absence of any procedure for complaints and appeals, it is questionable whether an interested party can have a court decision within the indicated timeframe.

35. This lack of right to appeal against a decision of a party congress could create additional problems in the light of the right to be elected. If the excluded candidate wins the case in the court of law after the date when candidates next on the list get their seats in the parliament, there is practically no possibility to redress the situation. At least, the appeal should have a suspensive effect.

CDL-AD(2016)018, Ukraine, Opinion on the Amendments to the Law on elections regarding the exclusion of candidates from party lists

110. [...] [T]he Constitution provides that parties and party alliances can bring disputes about parliamentary elections to the Constitutional Court. This is not open to candidates and voters. The grounds or timeframes are not set out. This might be in the Law on the Constitutional Court or in another law, but it should be clearly stated and regulated.

CDL-AD(2016)019, Joint opinion on the draft electoral code of Armenia as of 18 April 2016

6. Fair hearing

3.3. An effective system of appeal

[...]

h. The applicant's right to a hearing involving both parties must be protected.

CDL-AD(2002)023rev2, Code of Good Practice Matters

65. [...] Proceedings on cases before the Supreme Court seeking to protect suffrage rights should be held in public and the parties to the appeal should have the right to present their case directly or through legal representation. The OSCE/ODIHR and the Venice Commission recommend that the law be amended to provide the following minimum guarantees for these cases:

- a. The right to present evidence in support of the complaint after it is filed.
- b. The right to a fair, public, and transparent hearing on the complaint.
- c. The right to appeal the decision on the complaint to a court of law.

66. The above are the minimum safeguards necessary to provide due process for the protection of suffrage rights.

CDL-AD(2006)013, Joint Recommendations on the Laws on Parliamentary, Presidential and Local Elections, and Electoral Administration in the Republic of Serbia

33. Part 4 of the amended article provides that a complainant "shall not have the right to publicize, print, take excerpts from, or make copies of signed voter lists". This may be too restrictive and prevent the complainant from fully presenting a case to the election commission or in a court. This text should be revised to ensure that a complainant has the full opportunity to present all evidence relevant to a complaint, including evidence related to the voters list.

CDL-AD(2007)013, Final Joint Opinion on Amendments to the Electoral Code of the Republic of Armenia

33. Transparency in the adjudication of electoral rights is required under international standards. Proceedings to determine rights under a state's law:

"...must in principle be conducted orally and publicly. The publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large. Courts must make information regarding the time and venue of the oral hearings available to the public and provide for adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account, inter alia, the potential interest in the case and the duration of the oral hearing."

CDL-AD(2008)012, Joint opinion on amendments to the Election Law of Bosnia and Herzegovina

57. [...] With regard to national and European elections, Article 150(1) of the Constitution confers the right to initiate proceedings before the Constitutional Court upon a few institutions. In order to challenge election results, a political party, a coalition or a candidate must approach one of these institutions within 7 days of the CEC's decision validating the results; they then have 15 days to file a petition with the Constitutional Court. This means that there is no effective judicial procedure for challenging election results. In June 2009, the European Court of Human Rights concluded that similar provisions laid down in the then applicable Parliamentary Election Law did not provide for effective remedy due to the limited category of persons and bodies which may refer a case to the Constitutional Court. The above-mentioned articles should be amended accordingly so that the Code provides effective remedies for challenging election results.

CDL-AD(2011)013, Joint opinion on the election code of Bulgaria

108. The right to an effective remedy and fair hearing by an impartial tribunal is a well-established international principle. Accordingly, failure to comply with electoral law must be open for challenge before an effective appeal body. Both challenges before ordinary courts or before electoral commissions are possible options in an appeal system; however, the explanatory report to the Code of Good Practice in Electoral Matters states first instance appeals before electoral commissions could be more desirable, due to their better knowledge of electoral law. At any rate, a final appeal to a court must be possible. Additionally, expedited consideration of electoral campaigns is necessary for the appeal system to be fair and effective.

CDL-AD(2012)002, Opinion on the Federal Law on the election of the Deputies of the State Duma of the Russian Federation

100. The complaints and appeals system should be transparent, with the publication of complaints, responses, and decisions. Transparency provides assurance to complainants and voters that electoral malfeasance has been corrected as well as serving as a potential deterrence to future misconduct. [...]

CDL-AD(2013)016, Joint Opinion on the Draft Amendments to the Laws on election of people's deputies and on the Central Election Commission and on the Draft Law on repeat elections of Ukraine

58. [...] The lack of guaranteed public hearings by the Administrative Court is contrary to OSCE commitments and other international standards and reduces public confidence in the process. The Venice Commission and OSCE/ODIHR therefore recommend reviewing the Code to ensure that hearings on election-related cases be held in public unless the court specifically finds that there is an exception in the law to hold a particular hearing in private.

CDL-AD(2016)032, Joint opinion on the electoral code of “the former Yugoslav Republic of Macedonia” as amended on 9 November 2015

7. Time limits

3.3. An effective system of appeal

[...]

g. Time-limits for lodging and deciding appeals must be short (three to five days for each at first instance).

95. Appeal proceedings should be as brief as possible, in any case concerning decisions to be taken before the election. On this point, two pitfalls must be avoided: first, that appeal proceedings retard the electoral process, and second, that, due to their lack of suspensive effect, decisions on appeals which could have been taken before, are taken after the elections. In addition, decisions on the results of elections must also not take too long, especially where the political climate is tense. This means both that the time limits for appeals must be very short and that the appeal body must make its ruling as quickly as possible. Time limits must, however, be long enough to make an appeal possible, to guarantee the exercise of rights of defence and a reflected decision. A time limit of three to five days at first instance (both for lodging appeals and making rulings) seems reasonable for decisions to be taken before the elections. It is, however, permissible to grant a little more time to Supreme and Constitutional Courts for their rulings.

96. The procedure must also be simple, and providing voters with special appeal forms helps to make it so. It is necessary to eliminate formalism, and so avoid decisions of inadmissibility, especially in politically sensitive cases.

CDL-AD(2002)023rev2, Code of Good Practice in Electoral Matters

40. The “deadlines for taking decisions on complaints and appeals”, including of course the decision of contesting electoral results, have to be “realistic”. This is obviously an important element of the whole system of appeal, but the precise timeframe must vary not only from one country to another (depending on multiple factors, such as the systems of ballot-counting and of transmitting results), but also from case to case (different elections, which may be held in different contexts: uninominal districts or national constituencies, for instance; different chambers...). It does not seem easy to draw general conclusions about what deadlines should be admitted or not, and it will greatly depend on the circumstances.

CDL-AD(2006)025, Report on the Participation of Political Parties in Elections

82. The draft law [...] [a]wards a right to appeal in all cases and extends this right to appeal to third persons not involved in the initial hearing of a case, but who were directly impacted by the alleged violation. Strict time limits (an appeal must be filed within two days of a decision and the appeal must be heard within the following two days) ensure the continued efficacy of the dispute resolution system and, in this iteration, the right to appeal is likely to increase the fairness of the electoral process. Such a system, as it appears in draft law, is notable for its commitment to ensuring the timely resolution of election disputes.

CDL-AD(2009)028, Joint Opinion on the Draft Law No. 3366 about Elections to the Parliament of Ukraine

See also CDL-AD(2006)002rev, Opinion on the Law on Elections of People's Deputies of Ukraine, para. 94

71. The decision-making in the Administrative Court on the complaints is limited to 48 hours [...]. It is one of the shortest deadlines provided by procedures in the Council of Europe member States. It is also demanding for the judges to examine the evidence and provide a legal basis for the decision in this timeframe, especially as the court has to decide on complaints collectively. It is suggested that the time-limit for the courts to decide on complaints be extended, but must remain short enough to provide for effective remedy in the election. [...]

CDL-AD(2009)032, Joint opinion on the Electoral Code of "the former Yugoslav Republic of Macedonia" as revised on 29 October 2008

81. [...] While timely resolution of electoral disputes is fundamentally important, the [...] timeline is overly restrictive and will likely unduly limit the ability for all electoral stakeholders to have their claims addressed as appropriate. The need to provide an effective remedy for all violations of suffrage rights and to guarantee a fair and public hearing before an impartial court should outweigh [...] a stringent guideline on the timing of dispute resolution.

CDL-AD(2009)040, Joint Opinion on the Law on Amending some legislative acts on the election of the President of Ukraine adopted by the Verkhovna Rada of Ukraine on 24 July 2009

57. Most countries observed follow the rule of short time-limits. In a number of countries the time-limit is less than three days: in Georgia, Hungary, Lithuania and Portugal there is only one day to introduce the claim; in Bosnia and Herzegovina, Croatia, Serbia and "the former Yugoslav Republic of Macedonia" the time-limit is two days (48 hours).

58. The rule is three days in Azerbaijan, Estonia, Latvia, Malta, Switzerland (each 3 days), Albania (3 days for the introduction of the complaint before the central electoral body and five days before the court) and Liechtenstein (3 days plus 5 days to present evidence and reasons). A relatively short time-limit for the presentation of complaints is also provided for in Armenia (7 days), the Czech Republic, France, Slovakia, Sweden, (10 days), Finland (14 days) and Greece (25 days). Other countries have a longer time-limit: in the United Kingdom as a general rule 21 days, in some issues 14 or 28 days, in Austria 28 days, in Korea 30 days, in Bulgaria and Cyprus one month. A long term is provided in Germany (2 months for a complaint to the Bundestag and 2 other months to the Federal Constitutional Court) and in the Russian Federation (up to one year – however this time-limit does not affect or suspend the procedures related to declaration of election results or to office-taking by the elected persons).

60. Although longer proceedings might give judicial bodies more time to discuss the matter, collect evidence and make more elaborated decisions, they might make the fulfilment of successful decisions more difficult, put the judiciary under political and public pressure and hamper the functioning of legislation or government. A short term may however make it difficult for the judiciary to consider all the issues raised in appeals or complaints thoroughly.

CDL-AD(2009)054, Report on the cancellation of election results

71. Article 64 and new Article 64¹ define the process by which complaints and appeals can be submitted on voting and counting. These articles require that a “claim/appeal” presented to a PEC be immediately registered and the complainant be provided with a receipt of such registration (Article 64(1)). Deadlines for the filing of such complaints may, however, be overly stringent. Article 64(1) requires that complaints related to voting be made before the “closure of the ballot box,” and complaints on counting procedures be made “from the time of the opening of the ballot box until drafting of the concluding protocol.” While expediency in the conclusion of election related disputes is laudable, such stringent deadlines may serve to silence legitimate complaints, in particular those concerning voting procedures that are not discovered until after voting has ceased. It is recommended that such deadlines be revised to allow for the filing of complaints directly to the PEC until completion of protocols.

CDL-AD(2010)013, Joint Opinion on the Election Code of Georgia as amended through March 2010

27. [...] Considering that the conduct of an election requires prompt decisions and actions within a predetermined timeframe, the procedures governing election disputes should be different from those provided for general civil disputes. This could be reflected in shorter deadlines and a single appeal process, which can be justified as long as sufficient time is provided to file complaints and appeals. When setting time limits a balance should be struck between imperatives relating to the administration of justice in a timely manner within the electoral timeframe and the right to challenge decisions, actions or omissions of the electoral bodies in the fulfilment of their mandate. In particular, time limits should allow courts and electoral bodies sufficient time to process, review and make decisions upon the complaints and appeals submitted to them. The fact that some complaints or appeals, especially those related to election funding or campaigning, may require further investigation should also be taken into consideration. For each phase or facet of the electoral process (such as voter registration or the validity of candidatures), the electoral law should expressly and systematically set deadlines for filing complaints and appeals and by which either the courts or electoral bodies must reach a decision (paragraphs D 19, 20, 21, 23).

39. In many European countries (including Austria, Cyprus, Finland, France, Germany, Greece, Liechtenstein, Malta, Sweden, Switzerland, and the United Kingdom) where the judiciary is involved in electoral dispute resolution there are no shortened time limits for reaching a final decision. In Austria, challenges to violations of electoral rights during an election are permitted only to the extent that they are based on general regulatory and legal controls and addressed according to the regular timelines and procedures prescribed in the law. In France it is not uncommon for a court to take one year to resolve a complaint. In Germany the procedure allows for most complaints to be heard only after an election and some cases have extended to the point that they remained pending even after subsequent elections of the Bundestag. Thus one can conclude that it is not a consistent practice in Europe to institute shorter time limits for electoral cases.

47. The establishment of time limits can be implemented in various manners. One possibility is that as a general norm all electoral disputes could be considered as of an “urgent” nature, and

that a Court seized of a particular electoral question, both ex post and ex ante, must deal with the case according to the provisions for matters of urgency in its national Code of Procedure. Where and if the terms of “urgency” are not short enough to provide for an effective remedy, the imposition of fixed time limits in a number of days could also be considered.

CDL-AD(2010)046, Joint opinion on the electoral legislation of Norway

59. In many cases, the Code provides for very short time-limits for appeals. This is the case especially for disputes concerning registration of parties and coalitions and their candidates where the appeal shall be brought before the competent court no later than 24 hours after the CEC decision has been issued. It is important to avoid lengthy disputes on such sensitive matters; however, parties concerned should have access to effective remedy. Within the extremely short timeframe stipulated in the Code it might prove difficult for the appellants to bring forward all the relevant arguments in support of their case. The Code of Good Practice in Electoral Matters calls for a time-limit from three to five days. The same comment also applies to the timeframe for deciding on the case, which is also 24 hours and may not be sufficient to allow for the case to be considered thoroughly.

CDL-AD(2011)013, Joint opinion on the election code of Bulgaria

See also CDL-AD(2009)001, Joint Opinion on the Election Code of Georgia as revised up to July 2008, para. 111

50. Political parties should also be given clear and effective procedural safeguards to contest the decisions on denial of registration, suspension or dissolution. Election related complaints can be lodged either at the election administration or at the courts. It is not very clear where the division of competences lies and whether respect of the political parties electoral rights is fully guaranteed. As said in the Guidelines on political party regulations: “232. Expedited consideration is an important element to the fairness of a hearing. Proceedings cannot be delayed without risking usurpation of the right to a fair hearing. Legislation should define reasonable deadlines by which applications should be filed and decision granted, with due respect to any special considerations arising from the substantive nature of the decision. 233. Legislation should specify the procedures for initiating judicial review (appeal) of a decision affecting the rights of a political party. Legislation should also extend the right of judicial review of such decisions to persons or other parties that are affected by the decision.”

CDL-AD(2012)003, Opinion on the law on political parties of the Russian Federation

113. [...] [C]omplaints against PEC decisions on voting day, as well as applications to declare voting results in electoral precincts invalid may be submitted to the relevant DEC at the latest by 18:00 on the day following election day. Considering the need to substantiate such applications properly and the formal requirements for legal representation, this deadline is short and should be reconsidered.

115. Article 48.13, paragraph 2, provides that election commissions shall respond to the applications received on the day preceding and on election day within four days following the vote. This deadline is long and does not facilitate provision of an effective remedy to the applicants. *It is recommended that these applications be dealt with by PECs before summarising voting results.*

CDL-AD(2016)019, Joint opinion on the draft electoral code of Armenia as of 18 April 2016

8. Access to legal remedies

3.3. An effective system of appeal

[...]

b. The procedure must be simple and devoid of formalism, in particular concerning the admissibility of appeals.

96. The procedure must also be simple, and providing voters with special appeal forms helps to make it so. It is necessary to eliminate formalism, and so avoid decisions of inadmissibility, especially in politically sensitive cases.

CDL-AD(2002)023rev2, Code of Good Practice in Electoral Matters

169. It is of paramount importance that appeal procedures should be clear, transparent, and easily understandable. However, in a number of cases, the procedures for dealing with complaints and appeals are not clearly defined and are very complicated. International observers' reports repeatedly characterise complaint and appeals procedures as complex, ambiguous, and confusing, leading to an inconsistent interpretation and application of the electoral law. The rules and procedures are often not well understood by electoral subjects. Furthermore, members of relevant bodies are not always sufficiently trained on election complaints and appeals rules.

171. Moreover, the electoral law should provide that the appeals review by the election commissions follow a single hierarchical line, from lower to higher level commissions. [...]

CDL-AD(2006)018, Report on Electoral Law and Electoral Administration in Europe -Synthesis study on recurrent challenges and problematic issues

109. [...] [I]t is recommended that complainants be provided with the option of using special complaint/appeal forms throughout the election period. It is necessary to eliminate formalism in the Election Code, so as to avoid decisions of inadmissibility. Any flexibility built into admissibility provisions should be clear and not based on subjective decisions, and apply as broadly as possible.

115. The relatively high cost of filing court cases was reported by complainants as a deterrent to lodging election-related complaints and appeals (approximately 45 euros to first instance courts and approximately 70 euros to appeal courts.) Due to the importance of holding democratic elections, obstacles to challenging the democratic nature of the elections should be eliminated as much as possible, which may be of particular relevance in a newer democracy. It is recommended that the cost of filing complaints and appeals to the various courts be drastically reduced or eliminated altogether in order to facilitate access to justice on election-related matters.

117. For enhanced transparency, it is recommended that the CEC develop detailed standard operating procedures that describe step-by-step its internal process and procedures by which it will register, review, investigate, consider, adjudicate, and publish complaints and appeals and decisions related thereto.

CDL-AD(2009)001, Joint Opinion on the Election Code of Georgia as revised up to July 2008

9. Other procedural aspects

39. [...] In the context of elections, an effective system of appeal would mean that any decision by any state authority can be challenged and that a decision by a competent body is taken immediately. Any delay in complaints and appeals procedures can seriously compromise the credibility of an election.

CDL-AD(2006)025, Report on the Participation of Political Parties in Elections

121. Each act of the election administration should be formally published, broadly available for information to election stakeholders and appealable in a court of law. Publicity can be ensured through the public media and by immediate posting on the Internet. Any possible clarifications of the legal framework issued by the election administration should be made in a timely manner, so that the “rules of the game” are publicly available prior to or at an early stage in order to avoid surprises for election stakeholders and allegations for manipulation and fraud.

CDL-AD(2010)043, Report on figure based management of possible election fraud

43. All decisions of electoral commissions should be clear and reasoned so that aggrieved persons can judge whether to make a formal complaint.

CDL-AD(2004)016, Joint Recommendations on the Electoral Law and the Electoral Administration in Azerbaijan

43. One simple but possibly very effective measure to enhance transparency would be for the CEC to make its register of complaints, including the CEC decision on the complaint, publicly accessible. Where necessary, such materials could be made anonymous to protect the privacy of individuals involved in the complaint. Such a measure would provide a ready indication of the extent to which complaints are referred to the CEC, the nature of such complaints, and the CEC’s approach to dealing with them.

80. It is important that the CEC does not determine the final results of the election until it has received the rulings on any complaints filed with the electoral commissions and the courts which may have a bearing on the outcome of the election.

CDL-AD(2009)028, Joint Opinion on the Draft Law No. 3366 about Elections to the Parliament of Ukraine

See also CDL-AD(2006)002rev, Opinion on the Law on Elections of People's Deputies of Ukraine, para. 94

15. Other amendments, whilst introducing a measure of positive changes, would need to be further elaborated in order to ensure proper implementation:

[...]

(iv) The Code now establishes categories of complaints which must be considered by the CEC on a collegial basis. This includes all complaints relating to decisions by lower level commissions. Nevertheless, other categories of complaints remain for which decision making on a collegial basis is not required.

Recommendation: The Electoral Code should provide for a complaints and appeals mechanism that allows an effective means of redress for both candidates and individual voters.

63. The Amendments include various provisions relating to appeals against election-related decisions to election commissions and the courts. These are important given the concerns of the 2008 Report in respect of lack of access to redress for candidates and observers.

64. The CEC should decide on complaints collegially, ensure that all complaints are properly addressed before the final election results are announced. There should be a right of appeal against all decisions of the CEC to the Supreme Court.

65. The first amendment concerns the CEC. The 2008 Report noted the lack of collegiate consideration of complaints about conduct of the elections, with most being determined by the CEC chairperson alone or by the CEC staff. This raised obvious concerns about the power of the CEC chairperson or the staff to make such decisions and the lack of transparency in such a process. The Code now provides that all complaints arising from decisions taken by subordinate commissions must be considered by the CEC on a collegiate basis (Article 33, part 3). This is a positive step, but only a first one.

68. [...] Complainants must be permitted to familiarise themselves with the materials related to their appeal. Where they are complaining to an election commission, they must be informed of the time and date of the session at which their appeal will be considered so that they can attend the session. A decision must be taken within three days or, if received on election day, immediately. [...]

69. [...] Complainants should have the right to seek redress from a superior commission, whether or not the superior commission believes that such intervention is necessary, and absent such redress should be entitled to seek a judicial remedy.

CDL-AD(2010)012, Joint opinion on amendments to the electoral code of the Republic of Belarus as of 17 December 2009

19. Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR) calls for possibilities for judicial remedy, stating that “any person ... shall have an effective remedy...” and that “any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy”.

CDL-AD(2010)046, Joint opinion on the electoral legislation of Norway

56. In connection with the 2009 parliamentary elections, concerns were expressed by both OSCE/ODIHR and the PACE Ad Hoc Committee with regard to the lack of written procedural rules concerning the review of complaints and appeals lodged with the CEC. The criteria upon

which the CEC based its decision of what constituted a complaint were unclear, as was the appropriate form of its decisions. It is recommended that the Code explicitly require that the CEC adopts procedural rules for its decisions in writing as well as for those applying to lower election commissions. All election commissions should be required to issue written decisions and duly argue all their decisions. The format of decisions should also be standardized. This should apply to all decisions, whether or not they can currently be appealed to the Supreme Administrative Court.

CDL-AD(2011)013, Joint opinion on the election code of Bulgaria

64. Article 147 of the Code has been reorganised and the language clarified in respect of the information required to be in the submission, as previously recommended. This includes a requirement that the complainant submit an email address for receiving correspondence. Any means of communication should be possible, providing that the deadline is respected. This should be clarified so that all voters have the same rights to access the complaints process. Moreover, if email is used as a means to file complaints, it should be clarified that the SEC has the duty of acknowledging receipt. Failure to do so could undermine the requirement to adhere to set deadlines, hampering the right to file a lawsuit at the Administrative Court.

65. [...] Complaints should be handled based upon merits of the evidence, not up on the number of complaints. There should be no threshold on the number of complaints to be filed before they are considered. The requirements for two complaints should be deleted as it undermines the right to effective legal remedy. [...]

CDL-AD(2011)027, Joint opinion on the revised electoral code of “the former Yugoslav Republic of Macedonia”

66. The OSCE/ODIHR final report on the 2012 parliamentary elections stated: “A significant number of complaints were rejected on procedural grounds, such as being filed with the wrong body”. Something is fundamentally wrong when complainants cannot determine the correct body for filing a complaint. In order to address this fundamental issue, and in light of current structural restraints in the Ukrainian legal system, the Venice Commission and the OSCE/ODIHR make two recommendations, both of which are found in the Venice Commission Code of Good Practice in Electoral Matters: (1) providing special forms for complainants to complete when filing a complaint or appeal (with instructions to the complainant where to file the complaint or appeal) and (2) adoption of simplified filing procedures to reduce the observed 2012 occurrence of “a significant number of complaints [being] rejected on procedural grounds, such as being filed with the wrong body”. At first instance, electoral complaints should be handled by electoral commissions, and, in a second instance, they should be handed by courts. No change in the Constitution is needed in this respect; the recommendations call for a simplification and a clarification of the relevant rules in order to achieve a more efficient and effective electoral complaints and appeals procedure.

CDL-AD(2013)026, Joint Opinion on Draft Amendments to Legislation on the Election of People’s Deputies of Ukraine

10. Powers of appeal bodies

3.3. An effective system of appeal

[...]

e. The appeal body must have authority to annul elections where irregularities may have affected the outcome. It must be possible to annul the entire election or merely the results for

one constituency or one polling station. In the event of annulment, a new election must be called in the area concerned.

f. All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections.

g. Time-limits for lodging and deciding appeals must be short (three to five days for each at first instance).

h. The applicant's right to a hearing involving both parties must be protected.

i. Where the appeal body is a higher electoral commission, it must be able *ex officio* to rectify or set aside decisions taken by lower electoral commissions.

101. The powers of appeal bodies are important too. They should have authority to annul elections, if irregularities may have influenced the outcome, i.e. affected the distribution of seats. This is the general principle, but it should be open to adjustment, i.e. annulment should not necessarily affect the whole country or constituency – indeed, it should be possible to annul the results of just one polling station. This makes it possible to avoid the two extremes – annulling an entire election, although irregularities affect a small area only, and refusing to annul, because the area affected is too small. In zones where the results have been annulled, the elections must be repeated.

102. Where higher-level commissions are appeal bodies, they should be able to rectify or annul *ex officio* the decisions of lower electoral commissions.

CDL-AD(2002)023rev2, Code of Good Practice in Electoral Matters

172. Appeal bodies should have the authority to annul elections. There is consensus that the annulment should not necessarily affect the entire election. Instead, partial invalidation should be possible if irregularities affect a small area only. The central criterion for (partly or completely) annulling elections is, or should be, the question of whether irregularities may have affected the outcome, i.e. may have affected the allocation of mandates. In some countries (like Azerbaijan and Ukraine), however, the electoral law establishes a tolerance level for fraud (based on certain percentages of irregular votes), a practice which does not meet international standards (see for example, CDL-AD(2005)029, paras 42–43; CDLAD(2006)002, para. 84).

CDL-AD(2006)018, Report on Electoral Law and Electoral Administration in Europe -Synthesis study on recurrent challenges and problematic issues

33. The Election Code must unambiguously specify which body is responsible for invalidating an election. It is recommended that the procedure is clearly established. The provision according to which DEC's can invalidate the voting in a precinct where the law has been "grossly" violated should be reviewed, as invalidation should not be based on a subjective appreciation.

CDL-AD(2006)037, Joint Opinion on the Election Code of Georgia as amended through 24 July 2006

118. [...] Sanctions should apply to all violations of election-related law, be they committed by campaign participants, authorities at all levels, or voters. If particular violations or sanctions are included in the Criminal Code or Administrative Offences Code, they should be expressly referred to in the Election Code, and at a minimum the particular articles in those laws should be referenced in the Election Code. Where the appeal body is a higher level election commission, the law must provide that it can “ex officio” rectify or set aside decisions taken by lower level election commissions.

CDL-AD(2009)001, Joint Opinion on the Election Code of Georgia as revised up to July 2008

67. The provisions regulating the invalidation of election results should be clarified. Indeed, the inadequacy in the area of invalidation of election results has been shown by the experience of past elections. Some of this confusion derives from the fact that the power to invalidate appears to be within the authority of the DEC as per Articles 34(2), 38(2), and 643(4). However, Article 105(12) appears to extend some invalidation powers to the CEC as well. It is recommended by the Venice Commission and OSCE/ODIHR that all articles which relate to invalidation of election results be thoroughly reviewed and amended to ensure their clarity and consistency, and that they expressly state the authority of the CEC in regard to invalidation of results. It is also recommended that these articles clarify the circumstances in which elections, or part of an election, can or should be repeated. In addition, while cases of possible invalidation may be heard by election commissions in first instance, it is recommended that the proceedings offer possibilities to appeal to a competent court.

CDL-AD(2010)013, Joint Opinion on the Election Code of Georgia as amended through March 2010

69. In the last Joint Opinion (paragraph 91), the interpretation of Article 92 was raised as it could be read to give the Constitutional Court the authority to declare the entire election null even if violations were found only in isolated precincts or districts. The Code of Good Practice in Electoral Matters calls for repeat elections to be held only in those areas where the violations were established. The added paragraph (2) to Article 92 attempts to address this concern.

70. However, the new paragraph also seems to imply that despite the invalidation of results of elections in some polling stations and the conduct of repeat elections in those polling stations, the CEC will proceed with awarding mandates to some elected candidates before repeat elections take place. Such approach is not satisfactory as there is no guarantee that the repeat elections will not impact the overall allocation of mandates given the fact that Moldova has only one electoral constituency. The allocation of seats must therefore take place after the results of the repeated elections are made public.

CDL-AD(2010)014, Joint Opinion on the Draft Working Text amending the Election Code of Moldova

79. According to Article 46.10 of the Electoral Code, the CSEC should declare the voting results invalid after an appeal if the violations could significantly have affected the result. The word “significantly” is subject to different interpretations. Article 46.10 should clearly state that if there are reasons to believe that the violations could have changed the election results then the result should be invalidated. Any violations should be reported to the CEC who may invalidate the elections based upon the CSEC reports. Secondly, the CSEC should take this action even if there is no appeal. The CSEC should take this action on its own initiative should it be aware of facts justifying such action. Finally, consideration should be given to revising the code so that

the CSEC only makes the recommendation for invalidation and the decision on invalidation is made by the CEC.

CDL-AD(2011)032, Joint final opinion on the electoral code of Armenia

40. The provisions of Article 151(1), which detail the situations in which the results in a polling station should be annulled by the SEC, should be amended as previously recommended in the 2011 Joint Opinion. The current version of Article 151 states that the SEC "shall" annul the results in a polling station if one of the listed irregularities has occurred, no matter how severe. This could result in the disenfranchisement of all of the voters in a given polling station even though the alleged irregularity was minimal and was not proven to have affected the results.

CDL-AD(2013)020, Joint opinion on the electoral code of "the former Yugoslav Republic of Macedonia", see also

CDL-AD(2011)027, Joint opinion on the revised electoral code of "the former Yugoslav Republic of Macedonia", para. 68

11. Specific themes

11.1. Out-of-country voting

73. For out of country voting at the Diplomatic Consular Offices, the complaint and appeal procedures, for example those in place to "protect the right to vote" (Articles 50-51), for list submitters (Article 67) and for campaign organisers (Article 73) do not appear to have been addressed. With the current short complaint deadlines, and with the fact that submitting complaints by post is not permitted, an overseas voter, list submitter or campaign organiser will have considerable difficulty availing themselves of court protection.

CDL-AD(2009)032, Joint opinion on the Electoral Code of "the former Yugoslav Republic of Macedonia" as revised on 29 October 2008

34. Complaints from the three out-of-country districts can be filed by the authorized representative of the electoral contestants. However, it is unclear whether or not this procedure will result in timely and effective resolution of complaints concerning out-of-country voting as there are still logistic issues and issues related to evidence that are not addressed. The provision should outline a clear timeline for complaints and appeals procedures for those citizens residing abroad, so as to ensure that they have the opportunity to file complaints and have access to an effective remedy. Moreover, provisions regarding the institutions responsible for the appeals against commissions' decisions should be harmonised (in particular Article 147(2) and Article 148(5)).

35. Article 149 does allow for the submission of a complaint by express mail when an out-of country voter's right to vote has been violated. The complaint must be submitted within 24 hours of the violation. This would seem to conflict with the provisions of the law which do not allow for submission of complaints by post.

CDL-AD(2011)027, Joint opinion on the revised electoral code of "the former Yugoslav Republic of Macedonia"

59. [...] Article 149(2) still provides for submission of complaints via express mail while Article 67(9) provides for e-mail; these provisions should be harmonised, even if they do not concern the same type of violations. This could also lead to consideration as to whether to introduce the possibility for complaints and appeals by in-country voters to be done by post or e-mail.

CDL-AD(2016)032, Joint opinion on the electoral code of “the former Yugoslav Republic of Macedonia” as amended on 9 November 2015

11.2. Misuse of administrative resources

1.4. The possibility to bring complaints about the misuse of administrative resources to an independent and impartial tribunal – or equivalent judicial body – or to apply to an authorised law-enforcement body should be central in ensuring the appropriate use and to prevent the misuse of administrative resources during electoral processes.

C. Remedies and sanctions

1. Complaints and appeals

1. 1. The legal framework should provide for an effective system of appeals before a competent, independent and impartial court, or an equivalent judicial body: an independent judiciary is a sine qua non condition for sanctioning the misuse of administrative resources.

1. 2. The first instance appeal body in electoral matters should be either an electoral management body or a court or an equivalent judicial body. In any case, final appeal to a court must be possible. This guidance should apply to alleged cases of misuse of administrative resources.

1. 3. The legal framework should ensure the independence of electoral management bodies, other administrative bodies, and courts in their decisions when adjudicating disputes regarding the misuse of administrative resources. This should be both reflected in their training and technical capabilities. For this purpose, electoral management bodies should get appropriate staffing and other work conditions.

1. 4. While tackling cases related to the misuse of administrative resources, including via adjudication of election-related disputes, electoral management bodies, other administrative bodies, and courts must apply laws in a uniform and impartial manner irrespective of the parties to the particular case.

1. 5. Authorised law-enforcement bodies – police, prosecutors – should investigate cases on the misuse of administrative resources effectively and timely.

1. 6. The legal framework should ensure that the electoral management bodies and courts – and other judicial bodies – hold hearings and that their decisions are made public, written and reasoned. The legal framework should also ensure a timely adjudication and appeals process.

CDL-AD(2016)004, Joint Guidelines for preventing and responding to the misuse of administrative resources during electoral processes

11.3. Media

3.2. Freedom of voters to express their wishes and action to combat electoral fraud
[...]

xiii. counting must be transparent. Observers, candidates' representatives and the media must be allowed to be present. These persons must also have access to the records; [...]

92. If the electoral law provisions are to be more than just words on a page, failure to comply with the electoral law must be open to challenge before an appeal body. This applies in particular to the election results: individual citizens may challenge them on the grounds of irregularities in the voting procedures. It also applies to decisions taken before the elections, especially in connection with the right to vote, electoral registers and standing for election, the validity of candidatures, compliance with the rules governing the electoral campaign and access to the media or to party funding.

CDL-AD(2002)023rev2, Code of good practice in Electoral Matters

48. The most important aspect of regulating the media during elections is to find the right balance between respect for editorial independence and the need for certain rules to guarantee fairness by the media. Voluntary measures adopted by media professionals themselves, in particular in the form of codes of conduct or internal guidelines on good practice for responsible and fair coverage of electoral campaigns, are useful complements to state legislation or rules.

49. The legal and electoral background is the result of a variety of national traditions and practices. No universal model could produce the same results in different contexts. However, there are some basic principles that should inform the set of rules, practices, and behaviours for the legal framework and election regulation.

Complaints: The implementing body should act upon candidates' and parties' complaints or whenever it records a violation, regardless of whether it has received any complaints. Procedures should be established to receive and act on complaints from candidates and political parties about unfair or unlawful media coverage. These procedures should be timely, clear, and accessible in order to give complainants a prompt remedy. Sanctions imposed by the supervisory body should be commensurate with the gravity of the offence committed by the media outlet. These should not include imprisonment or any measure that could prevent the media from carrying out their activities or encourage self-censorship among journalists.

Appeals: The media or complainants should have the right to contest decisions of the implementing body through a timely, accessible, and prompt judicial appeal mechanism.

71. A detailed familiarity with the norms relating to the media and elections in a country is also necessary to assess whether media outlets and political actors respect these provisions. The overall process of observation should facilitate the gathering of evidence of any infringements of the law. The media analyst should keep records of all the complaints filed by the media or by political actors with regard to freedom of expression and access to the media. Any cases that arise should be investigated.

76. Interviews with journalists and other media professionals should also focus on topics related to the campaign, such as the following:
[...]

Whether the media have received any complaints from political parties or candidates for the way they are covering the campaign.

95. In the course of the electoral process, candidates, political parties, and media professionals who are the target of discrimination or violations of their rights might file complaints in order to receive redress. Keeping track of these complaints is important when assessing the confidence of political and media actors in the process.

96. The media analyst should, however, not interfere in this process. When complaints are addressed to the EOM, for example, instead of to the competent body, the media analyst should limit himself/herself to recording the complaint without intervening in the dispute, while also reminding the complainant of the officially established channels for registering complaints. On the other hand, when aware of a complaint, the media analyst should gather as much information about it as possible while remaining impartial. To obtain a comprehensive overview of the object of the dispute, the media analyst should meet all sides involved. The media analyst should work in close co-operation with the legal analyst, as well as with the election analyst.

97. Media-related complaints should be gathered in written form and archived. They should also be classified in a specially designed form (in hard copy or electronic version), verified, and followed up. The form should include relevant information such as:

- The date the complaint was filed;
- The name of the complainant;
- The name of the body or the person the complaint was filed against;
- The name of the body where the complaint was filed;
- The location of the body where the complaint was filed;
- The place the alleged wrongdoing occurred;
- The object of the complaint;
- The legal ground on which the complaint was filed;
- A short comment on the complaint on behalf of the media analyst or the observers reporting it;
- The date on which the competent body will hear the complaint.

CDL-AD(2009)031, Guidelines on Media Analysis during Election Observation Missions

65. The Election Code should [...] expressly provide for the right of electoral contestants to file complaints and appeals concerning unfair or illegal media activities during an election, and establish clear procedures for receiving and acting on such complaints.

CDL-AD(2009)001, Joint opinion on the election code of Georgia as revised up to July 2008

11.4. Election results

3.3. An effective system of appeal

[...]

e. The appeal body must have authority to annul elections where irregularities may have affected the outcome. It must be possible to annul the entire election or merely the results for one constituency or one polling station. In the event of annulment, a new election must be called in the area concerned.

f. All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections.

CDL-AD(2002)023rev2, Code of Good Practice in Electoral Matters

58. Furthermore, the Code does not allow election results to be disputed by voters but only by political parties, coalitions and candidates (through the institutions listed under Article 150(1) of the Constitution). These restrictions are not in accordance with good electoral practice. All candidates and voters registered in the constituency concerned must be entitled to contest the election results. The right to vote is as important in a democratic state as the right to be elected. Allowing a wide range of persons to appeal decisions concerning elections protects the legality of the elections. As it is possible to consider similar appeals together, the workload of courts after elections should not be affected. The Venice Commission explained in its Report on the Cancellation of Election Results that “[...] [in] case the elections are carried out unlawfully the individual constitutional right to vote or to be elected is violated. Such right should be protected by individual complaint, though it might not always lead to the cancellation of election results. The cancellation of election results is not necessary if the violations of electoral law are at small scale and do not influence the electoral results [...]”

CDL-AD(2011)013, Joint opinion on the election code of Bulgaria

11.5. Role of election observers

38. [...] [O]bservers must have the right to control all the spheres of the voting process (polling boxes, election committees at all levels), to intervene – at least, to be heard- in the resolution of possible conflicts which may arise, and to inform the parties which they represent about the problems during the observation so that the latter could lodge appeals against any decision not grounded in legal terms.

CDL-AD(2006)025, Report on the Participation of Political Parties in Elections

124. Thus, it is recommended that the Election Code expressly provide that accredited domestic observers and party proxies can serve as witnesses in complaints filed by voters and other persons involved in the electoral process or in the alternative, it should allow an individual accredited domestic observer or party proxy to file a complaint on election day on behalf of the relevant domestic observer organisation or political party, thus allowing the domestic observer/proxy to provide witness testimony in support of the complaint.

CDL-AD(2009)001, Joint Opinion on the Election Code of Georgia as revised up to July 2008

23. The Venice Commission’s Guidelines on an internationally recognised status of election observers consider the following areas of assessment for pre-voting and post-voting phases:
[...]

“The post-voting phase covers the following areas of assessment:

- i) counting process;
- ii) tabulation process;
- iii) transmission and publication of the preliminary results;
- iv) complaints and appeals procedures;
- v) publication of the final results;
- vi) taking up office of elected officials.”

27. The United Kingdom Code of Practice allows the witnessing of vote counting as a post-voting area of assessment. Even so, observation of post-voting electoral stages could also be helpful, including notably: complaints and appeal procedures, prolonged decision processes,

guarantees of due process and the enforcement of court decisions, as well as the implementation of election results to grant further assurance of the duly installation in office of persons elected.

CDL-AD(2010)045, Opinion on the Code of Practice on observing elections of the United Kingdom

79. Article 111 of the draft Code states that observers can conduct their activities up until the announcement of the election results. This text implies that, after the announcement of election results, observers will no longer be allowed to carry out their activities. However, in order to obtain an overall view of the election process, it is necessary for observers to be present during post-announcement stages, such as complaints and appeal procedures. It is recommended that the timeframe during which observers can implement their activities be extended.

CDL-AD(2014)001, Joint Opinion on the draft Election Code of Bulgaria

Appendix

- [CDL-AD\(2016\)004](#), Joint Guidelines for preventing and responding to the misuse of administrative resources during electoral processes
- [CDL-AD\(2016\)018](#), Ukraine - Opinion on the Amendments to the Law on elections regarding the exclusion of candidates from party lists
- [CDL-AD\(2016\)019](#), Joint opinion on the draft electoral code of Armenia as of 18 April 2016
- [CDL-AD\(2016\)32](#), Joint opinion on the electoral code of "the former Yugoslav Republic of Macedonia" as amended on 9 November 2015
- [CDL-AD\(2014\)001](#), Joint Opinion on the draft Election Code of Bulgaria
- [CDL-AD\(2014\)019](#), Joint Opinion on the draft Election Law of the Kyrgyz Republic
- [CDL-AD\(2013\)016](#), Joint Opinion on the Draft Amendments to the Laws on election of people's deputies and on the Central Election Commission and on the Draft Law on repeat elections of Ukraine
- [CDL-AD\(2013\)020](#), Joint opinion on the electoral code of "the former Yugoslav Republic of Macedonia"
- [CDL-AD\(2013\)026](#), Joint Opinion on Draft Amendments to Legislation on the Election of People's Deputies of Ukraine
- [CDL-AD\(2012\)002](#), Opinion on the Federal Law on the election of the Deputies of the State Duma of the Russian Federation
- [CDL-AD\(2012\)003](#), Opinion on the law on political parties of the Russian Federation
- [CDL-AD\(2011\)013](#), Joint opinion on the election code of Bulgaria
- [CDL-AD\(2011\)020](#), Opinion on the need for a code of good practice in the field of funding of electoral campaigns
- [CDL-AD\(2011\)025](#), Joint opinion on the draft law on presidential and parliamentary elections, the draft law on elections to local governments and the draft law on the formation of election commissions of the Kyrgyz Republic
- [CDL-AD\(2011\)027](#), Joint opinion on the revised electoral code of "the former Yugoslav Republic of Macedonia"
- [CDL-AD\(2010\)013](#), Joint Opinion on the Election Code of Georgia as amended through March 2010
- [CDL-AD\(2010\)012](#), Joint opinion on amendments to the electoral code of the Republic of Belarus as of 17 December 2009
- [CDL-AD\(2011\)032](#), Joint final opinion on the electoral code of Armenia
- [CDL-AD\(2010\)014](#), Joint Opinion on the Draft Working Text amending the Election Code of Moldova
- [CDL-AD\(2010\)043](#), Report on figure based management of possible election fraud
- [CDL-AD\(2010\)045](#), Opinion on the Code of Practice on observing elections of the United Kingdom
- [CDL-AD\(2010\)046](#), Joint opinion on the electoral legislation of Norway
- [CDL-AD\(2010\)047](#), Opinion on the draft election code of the Verkhovna Rada of Ukraine
- [CDL-AD\(2009\)001](#), Joint Opinion on the Election Code of Georgia as revised up to July 2008
- [CDL-AD\(2009\)028](#), Joint Opinion on the Draft Law No. 3366 about Elections to the Parliament of Ukraine
- [CDL-AD\(2009\)031](#), Guidelines on Media Analysis during Election Observation Missions
- [CDL-AD\(2009\)032](#), Joint opinion on the Electoral Code of "the former Yugoslav Republic of Macedonia" as revised on 29 October 2008
- [CDL-AD\(2009\)040](#), Joint Opinion on the Law on Amending some legislative acts on the election of the President of Ukraine adopted by the Verkhovna Rada of Ukraine on 24 July 2009
- [CDL-AD\(2009\)054](#), Report on the cancellation of election results
- [CDL-AD\(2008\)012](#), Joint opinion on amendments to the Election Law of Bosnia and Herzegovina

[CDL-AD\(2007\)007](#), Opinion on the Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States

[CDL-AD\(2007\)008rev](#), Code of Good Practice on Referendums

[CDL-AD\(2007\)013](#), Final Joint Opinion on Amendments to the Electoral Code of the Republic of Armenia

[CDL-AD\(2006\)002rev](#), Opinion on the Law on Elections of People's Deputies of Ukraine

[CDL-AD\(2006\)013](#), Joint Recommendations on the Laws on Parliamentary, Presidential and Local Elections, and Electoral Administration in the Republic of Serbia

[CDL-AD\(2006\)018](#), Report on Electoral Law and Electoral Administration in Europe -Synthesis study on recurrent challenges and problematic issues

[CDL-AD\(2006\)025](#), Report on the Participation of Political Parties in Elections

[CDL-AD\(2006\)027rev](#), Guidelines on the holding of referendums

[CDL-AD\(2006\)028](#), Joint Opinion on the Electoral Legislation of the Republic of Belarus

[CDL-AD\(2006\)037](#), Joint Opinion on the Election Code of Georgia as amended through 24 July 2006

[CDL-AD\(2004\)016](#), Joint Recommendations on the Electoral Law and the Electoral Administration in Azerbaijan

[CDL-AD\(2004\)027](#), Joint Recommendations on the Electoral Law and the Electoral Administration in Moldova

[CDL-AD\(2003\)015](#), Joint Final Assessment of the Electoral Code of the Republic of Azerbaijan

[CDL-AD\(2003\)021](#), Joint Recommendations on the Electoral Law and the Electoral Administration in Armenia

[CDL-AD\(2002\)023rev2](#), Code of Good Practice in Electoral Matters