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

**STUDY ON POLITICAL PARTIES AND ELECTIONS**

**NOTE OF THE SECRETARIAT**

## I. Introduction

1. In recent years, the Venice Commission has been actively involved both in the field of electoral law and of legislation on political parties in different countries. This work is focused not only on the legislation of specific States but also on some general issues essential for the democratic development of democratic institutions in Europe and elsewhere.
2. Free elections and freedom to associate in political parties are closely linked in any democracy, since political parties exist for the purpose of winning political power through free and fair elections. In a number of its separate opinions and research projects, the Venice Commission has examined the role of political parties in a democratic society and their participation in the electoral process of specific countries. However, until now the Venice Commission has conducted no comparative study of the legislation and practices in its Member countries in this important field.

## II. Political parties and elections.

3. From 1999 until the present, the Commission has drawn up three sets of guidelines on problems related to political parties:
  - a) [CDL-AD\(2004\)007 Guidelines and Explanatory Report on Legislation on Political Parties: some specific issues, adopted by the Venice Commission at its 58th Plenary Session \(Venice, 12-13 March 2004\);](#)
  - b) [CDL-INF\(2001\)008 Guidelines and Report on the Financing of Political Parties: adopted by the Venice Commission at its 46th Plenary Meeting, \(Venice, 9-10 March 2001\);](#)
  - c) [CDL-INF\(2000\)001 Guidelines on prohibition and dissolution of political parties and analogous measures](#) adopted by the Venice Commission at its 41<sup>st</sup> Plenary Session (Venice, 10 - 11 December, 1999).
4. The Commission has also adopted a number of opinions on legislation on political parties in such countries as Armenia (CDL-AD (2003) 5), Azerbaijan (CDL (2004) 43), Moldova (CDL-AD (2003) 8) and Ukraine (CDL-AD (2002) 17). The analysis of the national legislation on political parties and on elections in general, and some concrete questions addressed to the Venice Commission point to several issues of great importance in the practical implementation of the right to free and fair elections. This note aims at providing a list, though not exhaustive, of issues that could be the subject of a specific study of the Commission with a view of proposing a set of guidelines on political parties' participation in elections.

5. Such a study, which would be based on the experience of the Venice Commission in recent years, could be complementary to the work conducted by other institutions and by other Council of Europe's studies such as, for example, the integrated project's publication on Financing Political Parties and Election Campaigns – Guidelines.<sup>1</sup>

### **III. Some specific issues related to participation of political parties in elections which appeared in guidelines and different opinions of the Venice Commission.**

6. **Pre-electoral period:** At this stage of the electoral process, a number of questions have been raised in countries mentioned in previous paragraphs as to the procedures adopted by parties for nominating candidates (and their substitutes) or establishing a list of candidates in proportional representation systems. Another important issue is legislation or/and rules for depositing a list with the electoral authorities. The problem of additional requirements for parties for running in an election could also be studied under this section. Special attention could be paid to procedures concerning parties' participation in election management bodies of different levels and rights and obligations of parties' observers (as a separate sub-section).
7. **Electoral campaign:** One of the essential topics for any campaign concerns its financing. As it has been noted in a number of studies on this issue, national practice has a variety of approaches. In some countries parties use not only their own funds for their campaign activities but a number of external sources of financing. An additional point related to financing and also to campaigning in general is the respect of the principle of equality between different political forces. In recent years a question of abusive use by parties in power of state resources for pre-electoral campaign has been a major issue of confrontation with the opposition (the latest being Ukrainian presidential elections). The third aspect concerns access to media and legislation regulating the use both of State (where applicable) and private mass media.
8. **The day of election:** This section could mainly focus on two major aspects: the role of parties observers in polling stations and the complaints procedure.
9. **Post-election period:** In cases of 'difficult' or contested elections, the study could examine the procedure for contesting the result by a political party. In this respect, particular attention could be paid to the problem of the timeframe for processing a complaint. On the other hand, it would be useful to look into the issue of sanctions against parties or their candidates that fail to respect the electoral legislation (misbehaviour during the voting day, violation of rules for campaign financing, intimidation of voters or other actions violating the electoral legislation). Some attention could be paid to special procedures such as by-elections or re-run elections.

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<sup>1</sup> Financing Political Parties and Election Campaigns –Guidelines. Ingrid van Biezen. Integrated project "Making democratic institutions work". Council of Europe Publishing, Council of Europe, December 2003.