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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT CONVENTION

ON ELECTION STANDARDS, ELECTORAL RIGHTS, AND FREEDOMS

Approved by the participants
in the International Conference
of the Association
of Central and Eastern European Election Officials
(Moscow, 26-28 September 2002)

Explanatory Note
To the Draft Convention “On Election Standards, Electoral Rights and Freedoms”

The Convention “On Election Standards, Electoral Rights, and Freedoms” was drafted with the aim of summarizing, in a legally binding international law, the experience that the Council of Europe and various states have accumulated on legal regulation and administration of democratic elections; specifying and amplifying the basic provisions set forth in Article 3 of Protocol No. 1 (entered into force in 1954) to the European Convention for the Protection of Human Rights and Fundamental Freedoms (November 4, 1950, entered into force on September 3, 1953) and in the other documents; and defining the international law features of the modern democratic electoral process in a newly integrated Europe.

The draft Convention consists of 27 articles, which are grouped in four blocks. The first block deals with the standards of democratic elections. The list of such standards includes election principles: Periodic and mandatory, free, genuine, fair, open, and public elections based on universal and equal suffrage, held by secret vote or by equivalent free voting procedures, assuring voters of their freedom to vote with effective judicial protection and civic (public) and international monitoring.

This list also includes language guarantees, which is particularly important for ensuring the participation in elections of national minorities and ethnic groups, as well as indigenous peoples and nationalities. The principle of openness and publicity as an inalienable component of the efficient management of state affairs underlies all organizational elements of the modern electoral process. An important element of a new approach to the development of international election standards is the introduction of a mechanism guaranteeing the electoral rights and freedoms of election participants.

The second block of the draft Convention defines the status of election participants and the technological infrastructure of the modern electoral process. The fundamentals of the electoral mechanism ensure equal legal possibilities for all election participants. The new approaches are based on a more efficient and concrete procedure for the public monitoring of elections, as well as on stronger judicial guarantees.

The draft Convention lays down the fundamentals of the status and powers of observers and candidates’ agents, the procedure for filing complaints against violations of the electoral rights and freedoms of election participants with courts and other bodies, as well as the basic principles of information coverage of elections and election campaigns of candidates and political parties (coalitions) in the mass media and telecommunications media. In view of the fact that corruption is becoming one of the factors undermining the trust of citizens in institutions of state power, in elections particularly, and that the development of measures for preventing financial abuses must pass from the sphere of recommendations to the sphere of concrete international obligations, the draft Convention lays down general principles for the formation of a transparent funding mechanism for elections and the election campaigns of candidates and political parties.

The third block of the draft Convention defines the parameters of the status and powers of international observers. The presence of international observers contributes to the publicity and openness of elections. On this basis international observers are granted wide and real powers and are required to perform their functions and exercise their rights while abiding by such principles as neutrality and impartiality, a refusal to express any preferences for participants in the electoral process before the end of voting, and non-interference in the electoral process.

The concluding block of the draft Convention sets forth the measures that must not be regarded as discriminatory in the legislative regulation of the national electoral process. It defines the obligations of the parties to the Convention and regulates the matters relating to the signing, ratification, and entry into force of the Convention.

In general, the introduction and concrete formulation of the European election standards will give a new political and legal impetus to the synchronization and harmonization of the international and national legal realm, the realization of the electoral rights and freedoms of a human being and a citizen, and the preparation and administration of democratic elections. It will reduce certain inconsistencies, including the separation and duplication of the relevant rules and recommendations contained in the documents of various international organizations, imparting a binding international law significance to the standards of democratic elections and to the measures guaranteeing the electoral rights and freedoms of participants in the electoral process.

The formulation of election standards, electoral rights, and freedoms in the format of a European convention will make it possible to lay a more solid international legal foundation for the activity of the European Court of Human Rights, which affords legal protection for the rights and fundamental freedoms of individuals.

The structure of the draft Convention and the headings of its articles are as follows:

- Preamble
- Article 1. Election Standards
- Article 2. Free Elections
- Article 3. Periodic and Mandatory Elections
- Article 4. Genuine Elections
- Article 5. Fair Elections
- Article 6. Open and Public Elections
- Article 7. Official Language of Elections
- Article 8. Universal Suffrage
- Article 9. Equal Suffrage
- Article 10. Direct Suffrage
- Article 11. Secret Voting and Other Equivalent Forms Guaranteeing Freedom of Voting
- Article 12. Assurance of Equal Legal Conditions and Additional Possibilities for Participation in Elections
- Article 13. Preparation and Administration of Elections by Independent Election Bodies
- Article 14. Status of the Political Party (Coalition), Candidate at Elections
- Article 15. Status and Powers of National Observers, Agents of Candidates
- Article 16. Funding of Elections and Election Campaigns of Candidates, Political Parties (Coalitions)
- Article 17. Information Support of Elections and Election Campaigns of Candidates, Political Parties (Coalitions)
- Article 18. Complaints Against and Responsibility for Violation of Electoral Rights and Freedoms, Election Laws
- Article 19. Status and Powers of International Observers
- Article 20. Measures Not to Be Considered Discriminatory or Contrary to this Convention
- Article 21. Obligations of parties to the Convention
- Article 22. Rights Granted Irrespective of this Convention
- Article 23. Signing, Ratification and Entry into Force of the Convention
- Article 24. Accession
- Article 25. Presentation of Information

Article 26. Denunciation

Article 27. Notification

The Draft Convention On Election Standards, Electoral Rights, and Freedoms was approved by the participants in the international conference of the Association of Central and Eastern European Election Officials, which has a consultative status in the Council of Europe. The conference was held in Moscow on September 26 - 28, 2002 (Russian Federation).

Draft

CONVENTION

ON ELECTION STANDARDS, ELECTORAL RIGHTS AND FREEDOMS

The Member States of the Council of Europe, parties to this Convention (hereinafter referred to as the Parties),

considering the aims and principles of the Statute of the Council of Europe,

reaffirming the importance of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which establish that the will of the people as expressed in periodic and genuine elections shall be the basis of the authority of government;

being convinced that the recognition, observance, and protection of human and civil rights and freedoms, including the right to elect and be elected, is one of the supreme aims of the state and the international community, an inalienable condition for the further strengthening of cooperation between the states and nations in the name of the protection of ideals and principles which constitute their common democratic asset,

relying on the experience accumulated by the Council of Europe, other international organizations, and also the Member States of the Council of Europe in guaranteeing and protecting the electoral rights and freedoms of individuals,

wishing to contribute to the development of democratic traditions, such as the expression of the people's will in elections on the basis of real political pluralism and a multi-party system, under the supremacy of the constitution (and other fundamental laws of the state) and national laws relying on the universally accepted norms and principles of international law,

being convinced that democratic elections are one of the political and legal instruments of a stable civil society and sustainable development of the rule of law,

being resolved to implement the provisions of this Convention on the basis of the national legislation and the appropriate national policy,

have agreed as follows:

Article 1 Election Standards

1. The Parties believe that democratic elections are one of the supreme direct expressions of the power and will of the people.
2. The Parties recognize that the election standards comprise the following:
 - 2.1. the right to elect and be elected to bodies of state power and bodies of local administration (bodies of local self-government), other bodies of popular (national) representation, and elected state and municipal offices;
 - 2.2. free, periodic and mandatory, fair, genuine, open, and public elections;
 - 2.3. elections based on universal and equal suffrage, held by secret vote ensuring free expression of the voters' will;
 - 2.4. judicial and other protection of the electoral rights and freedoms of individuals;
 - 2.5. effective public control over and impartial international monitoring of elections.

Article 2

Free Elections

1. The supremacy of the constitution and other fundamental laws of a state shall be the legal basis for holding free elections in accordance with the universally accepted principles and norms of international law and international treaties.

2. Elections shall be held on the basis of the constitution and other statutory acts adopted by duly authorized bodies and officials, which enter into force before the beginning of the election campaign so as to assure equal legal conditions and possibilities for full-fledged participation in elections to all election participants.

3. Observance of the principle of free elections makes it possible for voters and other election participants to choose, without coercion, threat of coercion, or any other unlawful influence, whether to participate or not to participate in elections in the forms allowed by law and by lawful methods, without fear of punishment, influence or compulsion, specifically, depending on voting and election results.

4. Participation of a citizen in elections shall be free and voluntary. No one shall influence a citizen to compel him to participate or not to participate in elections or electoral procedures. No one shall compel a voter to vote for or against any candidate or candidates or any definite list of candidates of a political party (coalition). No one shall prevent a voter from freely expressing his will. No voter shall be compelled by anybody to declare how he intends to vote or has voted. It shall not be allowed to gather, publish, or disseminate personal information about voters who have or have not taken part in the voting.

5. The obligation of a citizen to participate in the voting laid down by the constitution or law does not constitute a restriction of the principle of free elections.

6. Each voter shall be entitled to equal and free access to an election precinct and a polling station or some other equivalent way of voting in order to exercise his right to participation in free voting.

7. Foreign nationals, foreign legal entities, and international political movements shall not be allowed to participate unlawfully in any activity related to the calling for and holding of elections, the funding (including donation of funds) of the election campaign of candidates, political parties (coalitions) intending to participate or participating in elections, or other organizations which are directly or indirectly associated with a political party (coalition) or are under its influence or control and contribute to the achievement of its aims in the course of the preparation and holding of elections.

Article 3

Periodic and Mandatory Elections

1. The Parties believe that elections must be held at reasonable intervals established by the constitution and/or law so that election of elected bodies and elected officials should be always based on the free will of voters. As a rule, the period of powers of a legislative (representative) body or other representative bodies shall not exceed five years.

2. The time of the beginning and end of voting in elections, as well as the duration of the voting period, shall be established so as to provide the most favourable and equal legal conditions for the expression of the will of all voters.

3. No actions shall be taken or calls made that incite or aim to incite the disruption, cancellation, or postponement of elections called and held in accordance with the constitution and/or laws.

4. When a state of emergency or martial law has been imposed over the entire territory of a country or in some of its areas, the constitution or laws may impose restrictions on the electoral rights and freedoms, with an indication of their scope and period, and the date of elections may be postponed.

Article 4 Genuine Elections

1. Observance of the principle of genuine elections ensures the determination of a freely expressed will of voters and its direct implementation.

2. Genuine elections shall provide to voters a real and law-based possibility to elect candidates or lists of candidates of political parties (coalitions). In genuine elections there is real political pluralism, ideological diversity, and a multi-party system realized through the functioning of political parties (coalitions) whose lawful activity is under the legal protection of the state.

3. In genuine elections voters shall have timely and free access to information about candidates (lists of candidates), political parties (coalitions), and the electoral process. A candidate (candidates) and political parties (coalitions) shall have access to the mass media and telecommunications media under equal legal conditions.

4. Electoral procedures shall be carried out in the procedure and within the periods that allow candidates, political parties (coalitions), and other election participants to organize a full-fledged election campaign.

5. Genuine elections shall ensure fair legal conditions for the nomination, registration, refusal, or cancellation of the registration of candidates, lists of candidates, or political parties (coalitions), as well as for the participation of all political parties (coalitions) in the election campaign. Requirements for registration shall be established with adequate time before the commencement of the election campaign; they shall be clear, definite, and free from any conditions that may serve as a basis for discriminatory restrictions or possible abuses, and shall be applied in a uniform manner.

6. Each candidate and each political party (coalition) participating in elections shall be able to file complaints about violations of the election laws and appeal voting and election results in courts and/or other bodies according to the procedure and within the period established by laws.

7. Elected persons who received the required number of votes, established by the constitution and/or laws, shall duly assume office in the procedure and within the period established by the constitution and/or laws, thereby accepting their responsibility to voters, and shall remain in office until the period of their powers expires or these powers are terminated otherwise in the procedure regulated by the constitution or by laws in accordance with the democratic parliamentary and constitutional procedures.

Article 5 Fair Elections

1. Observance of the principle of fair elections ensures equal legal conditions to all election participants.

2. Fair elections shall guarantee:

2.1. universal and equal suffrage;

- 2.2. equal legal conditions for participation of each candidate or each political party (coalition) in an election campaign;
- 2.3. public, timely, and full funding of elections, election campaigns of candidates and political parties (coalitions), and disclosure of information about all expenditures incidental to the preparation and administration of elections or election campaigns of candidates and political parties (coalitions);
- 2.4. honest execution of electoral procedures provided for by laws, specifically during voting and vote counting; rapid provision of full information about all voting results, beginning from the level of election precincts, including the possibility for observers to receive official copies of protocols of voting and/or election results from election bodies, with subsequent official publication of all voting and election results within a reasonable time;
- 2.5. organization of the electoral process by impartial election bodies or other bodies duly authorized therefore by law, working collectively, openly, publicly, and independently within the scope of competence and powers granted to them by the constitution and/or national laws;
- 2.6. quick and effective adjudication by courts and other bodies and officials, duly authorized by law, of complaints and statements about violations of election laws, including violations of the electoral rights and freedoms of individuals, a candidate (candidates), political parties (coalitions), and other election participants, within the time frame of various stages and procedures of the electoral process.

Article 6 Open and Public Elections

1. Elections shall be prepared and held openly and publicly.
2. Decisions of bodies and officials – which are adopted within the scope of their competence and relate to the calling, preparation and administration of elections, as well as the assurance and protection of the electoral rights and freedoms of election participants – shall be officially published or made known to the general public by other methods in the procedure and within the period established by laws.
3. Statutory acts affecting the electoral rights, freedoms, and obligations of individuals shall not be applicable until they are officially published.
4. Statutory acts, which restrict the electoral rights and freedoms of a citizen and do not conflict with the international obligations of a state shall have no retroactive legal force.
5. Observance of the principle of open and public elections must ensure creation of legal conditions for the exercise of effective public control over elections and for impartial international monitoring of elections.
6. The realization of the principle of open and public elections shall not extend to the secrecy of voting and the expression of the voter's will.

Article 7 Official Language of Elections

Elections shall be called, prepared, and administered with the use of the national language and, in the cases and according to the procedures established by the constitution and/or laws and other statutory acts, also with the use of official languages of all regions of the territory of a state, languages of minority peoples and nationalities, and national minorities and ethnic

groups within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible.

Article 8 **Universal Suffrage**

1. Observance of the principle of universal suffrage means the following:
 - 1.1. each citizen who has attained the age established by the constitution and/or law has the right to elect and be elected to the bodies of state power and local self-government, other bodies of popular (national) representation, and elected offices on the terms and in the order provided for by the constitution and/or laws and other statutory acts. This right is realized irrespective of any discriminatory restrictions and privileges, including those based on physical or other disabilities of a person, such as invalidity. The right to elect may be granted to a person who has attained the age of majority, when the person is able independently and to a full degree exercise his rights and discharge his duties. The right to be elected may be granted upon attainment of the aforementioned age, but the minimum age shall not be over 25 years unless otherwise provided by the constitution and/or laws with respect to candidates for certain elected offices; in particular, the office of Head of the State and/or the highest-ranking official of a territorial unit within a federative (federal) state and candidates to parliaments;
 - 1.2. possession of the relevant citizenship;
 - 1.3. residence of the voter in the territory where the elections are held; the minimum requirement for the period of residence may be imposed only at regional and/or local elections, and such a period of residence shall not exceed six months, unless a longer and more reasonable period is established to assure electoral rights of the representatives of national minorities and/or ethnic groups of voters or voters of the given territory as a whole;
 - 1.4. the right to elect and be elected is held by citizens who lawfully reside outside the territory of their state;
 - 1.5. everyone has the right to free access to an effective, impartial, and equitable procedure of state registration of voters or other voter registration established by law. Such registration is based on the documents and information indicated in laws (personal data), including information on electronic materials. Each citizen enjoys the right to correct this information to ensure its completeness and accuracy, as well as the right to know who is using or has used this information and why, and to whom it has been supplied. A voter has a guaranteed right to receive information about his inclusion on a voter list and to appeal, in a court and/or in some other procedure established by law, the refusal to include him on or his removal from a voter list, or any inaccuracy in the information about voters. Registration of voters may be carried out on a permanent (regular) basis, and the information about voters shall be updated at least once a year or within other reasonable periods conditioned by the nature of the voter registration procedure and its implementation. Voter lists shall be made available for examination and additional correction. Voters who settled in the territory of an election precinct after the voter lists had been made available for examination, as well as voters whose inclusion on the voter list was refused without any valid reason, shall be included by the election body on the voter list (or supplemental voter list);

1.6. the right to elect and be elected shall not be enjoyed by persons who have not attained the age established by the constitution and/or laws. The electoral rights and freedoms, including the right to elect and/or be elected, may be restricted by law for persons pronounced by a court to be incapable and persons serving a criminal sentence.

2. Nor shall discriminatory restrictions, such as non-inclusion on voter lists or in other electoral documents, be allowed on the basis of educational background, language ability, or on other similar grounds. Such persons shall not be prevented from the exercise of their right of access to documentary information (personal data) about themselves.

Article 9 Equal Suffrage

1. Observance of the principle of equal suffrage means the following:

1.1. each voter has one vote or the same number of votes as other voters; his vote has the same weight as votes of other voters and the equal weight of a voter's vote cannot be affected by the electoral system used in the state;

1.2. when voting is conducted on the basis of (single-mandate and/or multi-mandate) territorial constituencies and election precincts, these constituencies and precincts shall be formed on a fair basis, so that voting results should reflect most accurately and fully the will of the voters who participated in the voting. One of the principles to be used in the formation of constituencies and precincts may be the equal number of voters, with a minimum allowable deviation from an average representation quota for a constituency and with due regard to territories with national minorities and ethnic groups;

1.3. all citizens shall have equal legal conditions for the nomination of their candidacy at elections and for the participation in nomination of candidates.

2. Voters shall vote in election precincts at polling stations equipped for voting by election bodies.

3. In the cases and according to the procedures provided for by law, a voter may be given an opportunity to exercise his right to vote using such forms of voting as: voting outside a polling station, postal voting, voting on the basis of an absentee certificate, early voting, voting on the basis of a power of attorney, or other forms of voting which assure maximum convenience to voters, including persons with physical and other disabilities (infirmities) or persons staying at a hospital, a residence for elderly citizens, or at some other place where they reside temporarily or permanently. These forms of voting must permit the free and secret personal expression of their will.

4. A candidate shall not take advantage of his position or official status to gain election or the nomination and/or election of other candidates or lists of candidates. The list of violations of the principle of equal suffrage and the responsibility for such violations are established by law.

Article 10 Direct Suffrage

1. Observance of the principle of direct suffrage applies to elections to the national legislative body (parliament), or regional, local, and other representative bodies in which voters

directly vote for the candidate, candidates, or list of candidates they want to elect or against the candidate, candidates, list of candidates.

2. All deputy mandates of one of the chambers of the national legislative body (parliament) shall be open to free competition between candidates and/or lists of candidates in the course of general elections.

3. If the parliament consists of two chambers, and some or all mandates of the other chamber of the parliament are not open to free competition between candidates and/or lists of candidates in the course of general elections, and also if elected offices are not filled directly in the course of general elections, this does not contradict the provisions of this Convention.

Article 11

Secret Voting and Other Equivalent Forms Guaranteeing Freedom of Voting

1. The rights of citizens to secret voting shall not be restricted or infringed in any way.

2. Elections shall be held by secret voting that ensures free and secret expression of the voter's will.

3. Observance of the principle of secret and free voting in the forms established by law means the exclusion of any kind of control whatsoever over the expression of voters' will, as well as the provision of equal legal conditions for making a free choice between candidates, lists of candidates, or political parties (coalitions).

Article 12

Assurance of Equal Legal Conditions and Additional Possibilities for Participation in Elections

1. The Parties recognize the need to take further measures, including legislative measures, to assure women of fair legal conditions equal to those enjoyed by men, of the right to elect and be elected to elected bodies and elected offices both individually and as a candidate (on the list of candidates) of a political party (coalition), in accordance with the conditions and procedure provided for by the constitution and/or laws or other statutory acts.

2. The Parties also recognize the need to take further measures, including legislative measures, to guarantee additional conditions, if needed, for the participation of persons with physical and other disabilities (infirmities), as well as other categories of the population (representatives of indigenous and small peoples, nationalities, other national minorities, or ethnic groups.) These additional conditions apply specifically to the realization of the right to elect and be elected personally or as representatives of a political party (coalition), or to participate in the voting with the aid of persons indicated in laws.

Article 13

Preparation and Administration of Elections by Independent Election Bodies

1. The preparation and administration of elections, including the determination and official publication of the voting and election results, the safekeeping of electoral documents (ballots, protocols) until the expiration of their safekeeping periods, and the assurance of the electoral rights and freedoms of election participants, shall be carried out by collective election bodies headed by the central election body, acting independently, impartially, and within the scope of competence and powers established by the constitution and/or laws and other statutory acts.

2. The procedure for the formation of election bodies, their powers, the duration of these powers, the organization of their activity, as well as the grounds, procedure, and period for the dissolution of an election body or early termination of the powers of one of its member (members) shall be established by law. As a rule, members of election bodies shall be persons who are knowledgeable in the field of organization of the electoral process or have experience in the preparation and administration of elections, including representatives of political parties (coalitions), national minorities, and ethnic groups.

3. Resolutions of electoral bodies shall be adopted by a majority and, in the cases provided for by law, qualified majority of the whole number of votes of members of the election body.

4. No structures (bodies, organizations) shall be formed or allowed to operate which supersede the electoral bodies indicated in Paragraph 1 of this article, nor shall they perform fully or partially their functions, obstruct or unlawfully interfere with their lawful activity, or otherwise appropriate the status, functions, and powers of the said election bodies.

5. Members of an election body shall not be bound by any decisions and other documents of political parties (coalitions) to which they belong and which nominated them to the election body. During their term of office as members of a permanent election body, its members may suspend their membership in a political party (coalition) or other political organizations. The bodies and officials that appointed members of an election body have no right to recall them.

6. Any decision or action (omission) of an election body may be appealed in the election body specified by law and/or in a court, in the procedure provided for by law. A higher election body may reverse the decision of a lower election body if this decision conflicts with law or has been taken in violation of the established competence, and may either take a decision on the substance of the matter set forth in the appeal or send the relevant documents for new consideration to the lower election body whose decision was reversed.

Article 14

Status of Political Party (Coalition), Candidate at Elections

1. Each citizen, individually or together with other persons, shall be entitled to:

- (a) freely express political views and political preferences;
- (b) seek election to elected offices, personally or as a representative of a political party (coalition). Each citizen may nominate and/or propose his candidacy for nomination as a candidate on the list of candidates of a political party (coalition);
- (c) search for, obtain, and communicate information about the electoral process and make a sound personal choice;
- (d) freely travel over the country and/or the territory of the constituency (the territory where elections are held), while participating in an election campaign on an equitable basis with other election participants;

2. Each citizen shall be entitled, on the equal conditions with other citizens, to join or, together with other persons, to organize a political party (coalition) on a lawful basis for the purpose of participation in elections, including the nomination of candidates or lists of candidates.

3. Each candidate and each political party (coalition) shall be entitled to have their political and electoral rights and freedoms safeguarded and protected by law.

4. The Parties to this Convention shall make arrangements for informing citizens and other election participants about the legislative requirements of the procedure for nomination and registration of candidates and lists of candidates of political parties (coalitions), about the status of candidates and political parties (coalitions) participating in elections, about the periods for the performance of electoral procedures, and also about the statutory acts and their provisions relating to the preparation and administration of elections.

5. In the cases and according to the procedures provided for by laws, the nomination and registration of candidates or lists of candidates of political parties (coalitions) may be carried out by the collection of the number of voters' signatures established by law, through the payment of an electoral (monetary) deposit, or by means of other procedures which take into account, among other things, the parliamentary status of a political party (coalition) or the number of votes received by a political party at the previous elections to the national legislative body (parliament).

The number of signatures established by law shall not exceed 2 percent of the number of voters in the given constituency; the size of the electoral deposit shall not be burdensome for the candidate or political party (coalition). The law shall specify the minimum number (percentage) of votes that has to be received by a candidate or list of candidates of a political party (coalition) for the electoral deposit to be returned.

The law shall fully and clearly establish the duration of the signature collection period, the deadline for submission of the signatures for verification, as well as the procedure for the verification of signatures and for pronouncing them to be bona fide or otherwise. The law may provide for verification of all signatures or for selective verification of a fixed quota thereof.

6. A decision to register a candidate or list of candidates of a political party (coalition) participating in elections may be reversed by courts and/or election bodies according to the procedure and within the periods established by laws.

7. The Parties to this Convention may legislatively establish the number (quota) of votes required by political parties (coalitions) to participate in the distribution of deputy mandates in accordance with the voting results at elections. The procedures regulating vote counting, the determination of voting and election results, the declaration of the winning candidate to be elected, and the distribution of mandates between candidates or lists of candidates of political parties (coalitions) shall be established by law.

Article 15

Status and Powers of National Observers, Agents of Candidates

1. Each candidate and/or each political party (coalition) or other election participants indicated in laws shall be entitled, observing the procedure and conditions established by law, to appoint their observers to be present at election bodies during voting, vote counting, and the tabulation of election results, as well as in other cases provided by law.

2. National observers may also be appointed by non-governmental public organizations.

3. The rights and obligations of observers and agents of candidates shall be defined by law and other statutory acts adopted by the bodies which call and/or administer elections.

4. Observers, agents shall be granted the following basic rights:

- 4.1. to examine election documents (with the exception of documents which affect the interests of national security or contain confidential information about voters) and to receive information about the number of voters on voter lists and the number of voters who took part in the voting, as provided by Paragraph 2, Article 9 of this Convention;
 - 4.2. to be present at the office of the election body and at the polling station and to observe the collective (public) work, including meetings of the election body, as well as also the voting and other electoral procedures;
 - 4.3. to be present at early voting, voting outside the polling station, other forms of voting provided for by laws;
 - 4.4. to observe vote counting under conditions in which the contents of ballots can be seen;
 - 4.5. to watch an election body drawing up protocols of voting and election results and other election documents, to examine the protocols of voting and election results, and to make copies of the said protocols or receive such copies from the election body;
 - 4.6. to make proposals and comments to an election body concerning the organization of voting, vote counting, the tabulation of voting and election results, and to make statements about violations of election laws, including violations of the electoral rights and freedoms of election participants.
5. The Parties believe that the necessary and equal legal conditions must be created for all national observers to monitor the provisions for the integrity and transparency of the electoral process and also the conduct of voting, the execution of electoral procedures connected with the tabulation of the voting and election results. The simultaneous presence at a polling station of two and more observers representing one of the candidates, one of the political parties (coalitions), one of the other election participants, or one of the non-government public organizations may be prohibited by law.
6. No restrictions other than those established by Paragraph 5 of this article shall be established with respect to the presence at the office of an election body or at a polling station, or to the activity of national observers from one of the election participants or from one of the non-government public organizations.

Article 16

Funding of Elections and Election Campaigns of Candidates and Political Parties (Coalitions)

1. The activities connected with the calling, preparation for, and administration of elections shall be funded from a budget, and the budget funds shall be allocated and made available to election bodies in due time and in an amount sufficient for organizing and administering elections in accordance with the requirements of election laws.
2. The state shall allocate budget funds to candidates and political parties (coalitions) participating in elections for the conduct of their election campaigns in the cases and according to the procedures provided for by the constitution and/or laws and other statutory acts. The funds shall be allocated on a fair basis, promptly and fully, and shall allow them to form their own election funds during the election period to finance their election campaigns; such funds can be formed by candidates and/or political parties (coalitions) using their own money and voluntary donations from natural persons and/or national legal entities.

3. The allocation of budget funds to political parties (coalitions) participating in elections for the conduct of their election campaigns may be carried out depending on the number of votes received by a political party (coalition) at the previous elections to the national legislative body (parliament), the status of a parliamentary political party (coalition), the total number of registered candidates nominated by a political party (coalition), the number of constituencies where the candidates nominated by a political party (coalition) have been registered, or by other conditions stipulated by law.

4. To create equal conditions for all candidates and political parties (coalitions), the Parties shall establish a reasonable maximum size of the election fund of a candidate or political party (coalition), which they may spend on the conduct of their own election campaigns.

5. In accordance with law the Parties shall ensure the openness and transparency of all monetary donations to candidates and political parties (coalitions) and their expenditures, so as to exclude donations prohibited by law or donations exceeding the size established by law and to prevent unlawful expenditures of resources from state election funds.

6. Subject to law, other statutory legal acts, candidates and political parties (coalitions) participating in elections shall, at the intervals established by law, submit to the bodies and officials designated by law, the information and reports concerning the receipt of all donations to their election funds, the donors, and all expenditures made by them from these funds to finance their election campaign. They also shall arrange for the publication of such information and reports, unless this duty is imposed by law on election bodies.

7. The powers to control or oversee compliance with the rules, periods, and procedures for the campaign funding of candidates and political parties (coalitions) shall be vested by the Parties in officials, election bodies, or in a special body to be established for this purpose, subject to law.

8. The grounds and the procedures shall be established by law for calling to account candidates and political parties (coalitions) for the violation of legal norms regulating the formation of their own election funds, the receipt of money and the expenditure of money from such funds, and for the use of any other sums contributed to their own election funds in a means that is not in accordance with law.

Article 17

Information Support of Elections and Election Campaigns of Candidates and Political Parties (Coalitions)

1. The Parties shall ensure, in compliance with laws, the freedom to search for, collect, or disseminate information about elections, candidates, lists of candidates, political parties (coalitions) participating in elections, or other election participants indicated by laws. The Parties shall also ensure the impartial information coverage of the purpose, preparation, and progress of elections, election campaigns of candidates and political parties (coalitions) in the national mass media and telecommunications media.

2. The Parties believe that state-owned mass media or mass media with partial state and/or municipal participation must ensure balanced news information coverage of elections and the election campaigns of candidates and political parties (coalitions) without any political, ideological, or other biases or preferences.

3. The Parties shall assure to citizens, candidates, and political parties (coalitions) that nominated registered candidates (lists of candidates) the freedom of campaigning activity conducted in any form allowed by law and by lawful methods, according to the procedure and at the time provided for by laws, in the conditions of real pluralism of opinions, and in the absence

of censorship and arbitrary or discriminatory suppression of electoral information. No purposeful direct or indirect defamation of candidates or political parties (coalitions) participating in elections shall be allowed in the mass media and telecommunications media.

4. Fair, equal, and non-discriminatory legal conditions, established by law for access to the mass media and telecommunications media, shall be assured to all candidates and political parties (coalitions) participating in elections for the conduct of their election campaigns, including the presentation of their election programs (platforms) and the proclamation of slogans and appeals. In the cases and according to the procedures provided for by laws, air time and/or space in print media may be provided on an equitable basis and free of charge to all candidates and political parties participating in elections to conduct their election campaigns, including the presentation of their election programs (platforms). Paid air time and paid space in print media shall be afforded to candidates and political parties (coalitions) participating in elections directly by the mass media, on the terms and conditions and according to the procedures provided for by laws, and shall be paid for by candidates, political parties (coalitions) from their own election funds.

5. In the conduct of campaigning activity, no abuse of the freedom of assembly, freedom of associations, freedom of speech, and freedom of mass media shall be allowed, including calls for a violent seizure of power, a violent change of the state system, a violation of the territorial integrity of a state, calls directed at campaigning of war, or terrorist or other violent acts inciting social, racial, gender, national, ethnic, or religious hatred and enmity.

6. The Parties shall use their best efforts make the electoral information indicated by law available to representatives of national minorities and ethnic groups in their native language.

7. The Parties shall strive to ensure to persons with physical and other disabilities full access to special information materials – prepared and published with the use of budget financing – which present information about candidates, lists of candidates, political parties (coalitions), their election programs (platforms), or other participants in the election campaign. The Parties shall also strive to ensure the possibility to mark the ballot and vote without the aid of others, as indicated by law.

Article 18

Complaints Against and Responsibility for Violation of Electoral Rights and Freedoms

1. The national constitutional, civil, administrative, and criminal judicial procedures shall ensure the legitimate and public nature of elections: the protection and realization of electoral rights and freedoms of citizens, candidates, and political parties (coalitions) participating in elections, as well as other election participants. They shall also ensure law enforcement practices based on democratic principles of organization of the electoral process.

2. In the event of violation of the election standards or the electoral rights and freedoms proclaimed in this Convention, the injured person or persons, political party (coalition) or bodies, organizations, officials involved in the electoral process under law shall be entitled to prompt and effective protection of, submission of complaints to, and restoration of violated rights by the judicial and administrative bodies and also, in the cases and in the procedure provided for by laws and other statutory acts, the election bodies and other bodies, and the persons guilty of unlawful actions (omissions) shall bear responsibility in accordance with law.

3. The time limits for lodging complaints, the procedures for the adjudication of disputes connected with protection of the electoral rights and freedoms of individuals, other election participants, and the division of powers between judicial and other bodies, including election bodies, in the adjudication of such disputes, shall be clearly and exhaustively laid down by law

and shall ensure fair adjudication of election disputes within the periods and stages of an election campaign, execution of electoral procedure. The person (persons) who lodged a complaint shall have the right and the possibility to adjudication hearing by an election body. The Parties believe that the followings must be dealt with mainly by courts of law:

- (1) election disputes connected with the protection of the electoral rights and freedoms of election participants;
- (2) violation of the rules for inclusion of a person on the voter list;
- (3) unlawful refusal of registration and annulment of registration of a candidate, political party (coalition);
- (4) unlawful contribution of money to and expenditure of money from the own election fund of a candidate, political party (coalition) or use of other funds which are not provided for by law;
- (5) abuse of the freedom of speech and mass information in the course of election campaigns conducted by candidates, political parties (coalitions);
- (6) invalidation of the voting and election results.

4. The period for the protection and/or restoration of violated rights and freedoms of election participants shall be commensurate with the timeframe of the implementation of electoral procedures and the conduct of the election campaign as a whole, and shall be determined with due regard to the need to ensure timely adjudication of complaints of election participants. This period shall not lead to the postponement of elections or electoral procedures, shall not violate the integrity of the electoral process, and shall not in any way affect the actual expression of the will of citizens.

5. The activity of persons and bodies aimed at the disclosure of confidential information about voters or other election participants; the falsification of vote counting, voting, and election results; the prevention of individuals from freely exercising their electoral rights and freedoms, including the right to secrecy of voting, the assumption or occupation of an elected office, and the activity of persons and bodies aimed at or resulting in violation of the universal principles and norms of international law in the field of the conduct of democratic elections shall be punishable by law.

Article 19

Status and Powers of International Observers

1. The Parties reaffirm that the presence of international observers is conducive to the openness and public nature of elections, as well as to the observance of international obligations of states with regard to the holding of democratic elections. They shall strive to provide access of international observers to electoral processes at levels lower than the national level, including local elections.

2. The activity of international observers shall be regulated by the laws of the country where they work, the international obligations of a state, and by this Convention.

3. International observers shall be granted visas to enter a state in the procedure established by the laws of this state and, if they have a relevant invitation, shall be accredited by the appropriate election body or some other body duly authorized by law. Invitations may be extended by bodies duly authorized to do so by law after official publication of the decision to call the elections.

4. The central election body or other organs (officials) authorized by law shall issue international observers with an accreditation card of the established form.

5. Election bodies, bodies of state power, bodies of local administration (local self-government), their officials shall, within the scope of their competence, render the necessary assistance to international observers.

6. International observers shall carry on their activity independently, abiding by the principles of political neutrality and impartiality. The activity of international observers shall be supported materially and financially by the organization, which sent them and/or out of their own resources.

7. International observers may:

7.1. have access to all documents (except for documents that affect the interests of national security or contain confidential information about voters) regulating the electoral process;

7.2. establish contacts with political parties (coalitions), candidates, private persons, officials of election bodies, and other bodies and persons indicated in laws;

7.3. freely visit election precincts, offices of election bodies, polling stations; be present at voting conducted at the place of residence of a voter (outside the polling station);

7.4. observe the progress of voting, vote counting and determination of voting and election results under conditions in which these procedures are observable;

7.5. acquaint themselves with the progress and results of the adjudication of complaints (applications) and grievances relating to violation of election laws, including violations of the electoral rights and freedoms of election participants;

7.6. inform officials of election bodies about their observations without interfering in the work of the bodies in charge of the preparation and administration of elections;

7.7. publicize their opinion about the preparation and administration of elections after the end of voting;

7.8. present to election officials their conclusions concerning the preparation and administration of the election, the assurance of the electoral rights and freedoms of individuals and other election participants, and the observance of international obligations of the state with respect to the holding of democratic elections.

8. International observers shall not use their status to engage in any activity unrelated to monitoring of elections; to interfere in the electoral process; to poll voters on voting day to find out how they intend to vote or have voted; to take part in voting, vote-counting, or the tabulation of voting and election results. The Parties reserve the right to withdraw accreditation of international observers who violate laws, other statutory acts, universally accepted principles and norms of international law, or provisions of this Convention.

Article 20

Measures Not to Be Considered Discriminatory or Contrary to this Convention

1. The electoral rights and freedoms of individuals may be restricted by law only so far as it is necessary for the protection of the health, rights, and legitimate interests of other persons, the safeguarding of national security and public order, and the prevention of crime.

2. The constitution and/or law may restrict the electoral rights and freedoms of individuals or other election participants listed in this Convention without being considered discriminatory if they provide for:

- 2.1. reasonable requirements for the restriction of the right to participation in elections or the right of access to elected offices, including restrictions imposed by law on the electoral rights, freedoms, and obligations of a person pronounced to be incapable by a court or a person serving a criminal sentence;
- 2.2. measures establishing a reasonable period which has to elapse before naturalized persons may exercise their electoral rights, freedoms, and/or obligations, provided a liberal policy with respect to naturalization is pursued in the meantime;
- 2.3. special measures, including the legislative allocation of a quota of deputy mandates, taken to ensure an adequate representation of some part of a country's population, primarily national minorities and ethnic groups, which, owing to political, economic, religious, social, historical and cultural conditions, is deprived of a possibility to enjoy the political and electoral rights and freedoms on an equitable basis with the rest of the population, as well as additional guarantees assuring equal possibilities for the realization of the electoral rights and freedoms to separate categories of voters, primarily women, persons with physical and other disabilities (infirmities), including such possibilities for inclusion on lists of candidates of political parties (coalitions);

3. Restrictions to the nomination and/or registration of candidates and lists of candidates, the creation and activity of political parties (coalitions), and the electoral rights and freedoms of individuals may be imposed only by law. Such restrictions shall conform to the international obligations of a state.

4. Restrictions connected with the participation in the election campaign of candidates running for re-election to an elected body or elected office for a new term shall be established by constitutions and/or laws or other statutory acts. Compliance with the established restrictions shall not prevent deputies or elected officials from exercising their powers and fulfilling their obligations to the voters.

5. A restriction established by law that prohibits a person holding a deputy mandate or occupying an elected office servicemen from being members of the clergy, employees of a body of executive power, judges, or prosecutors shall not be contrary to the provisions of Article 8 of this Convention.

Article 21

Obligations of Parties to the Convention

1. The Parties shall take legislative and other measures to strengthen the guarantees of the electoral rights and freedoms for holding democratic elections and realizing the provisions of this Convention.

2. The Parties undertake:

- 2.1. to guarantee protection of the democratic principles and norms of electoral law, the democratic nature of elections, and the voluntary and free expression of citizens' will at elections; to have strict requirements for declaring elections legitimate (declaring elections to have taken place and to have been valid);

- 2.2. to strive for the creation of a system of legal, organizational, financial, informational, technological, and other guarantees of the electoral rights and freedoms of individuals in the preparation and administration of elections of all levels; to take the necessary measures, including legislative measures, to assure that women, persons with physical and other disabilities, representatives of national minorities and nationalities, other national minorities and ethnic groups, have additional means for participating in elections, including voting, the assurance of secret voting, and the exercise of the right to be elected;
- 2.3. to establish an effective and non-discriminatory procedure for the registration of voters based on clear criteria, such as citizenship, age, place of residence, and the availability of the required proof of identification;
- 2.4. to establish legislatively the responsibility of persons and organizations furnishing information about voters to ensure the accuracy, fullness, and timely presentation of such information, as well as the confidentiality of the personal data as prescribed by law;
- 2.5. to ensure that the law and national policy should be directed towards the separation of the party and the state, that election campaigns should be conducted in an atmosphere of freedom, responsibility, transparency, and honesty, allowing parties (coalitions) and candidates to present their political views, opinions, and election programs (platforms) freely, and allowing voters to discuss them, get acquainted with them, and vote “for” or “against” freely, without any fear of punishment or any kind of persecution; to prevent the state, administrative and other resources, including state and municipal employees, from being used to express preferences or create privileges or restrictions for candidates or political parties (coalitions) participating in elections.
- 2.6. to develop, introduce and/or use new information and computer technologies and technical and technological standards which contribute to the openness and publicity of elections, the execution of the voter registration procedure, the rapid and accurate tabulation of voting and election results beginning from the level of election precincts, and the verification of these results; and to raise the trust of voters, candidates, political parties (coalitions), and other election participants in electoral procedures and elections in general;
- 2.7. to adopt national programs and participate in the drafting and adoption of international programs of civic education and training; to make arrangements for acquainting citizens and other election participants with electoral procedures and rules, for enhancing their legal and electoral culture and for improving the professional qualifications of election officials, paying special attention to the provision of information to and/or training of persons with physical and other disabilities;
- 2.8. to promote cooperation between the election bodies of the parties to this Convention;
- 2.9. to take legislative measures to extend the list of election bodies working on a permanent basis;

- 2.10. to promote, for the exchange of information, the creation of a unified databank containing information about national election laws, participants in the electoral process, international observers, law enforcement and judicial practices, and legislative proposals to improve the election system, as well as other information relating to the organization of the electoral process and the assurance of the electoral rights and freedoms of election participants;
- 2.11. to strive to abolish, as proper conditions appear, the existing restrictions on the electoral rights and freedoms or the existing privileges in this sphere which are provided for by the constitution and/or law and are not contrary to the international obligations of a state, so that participants in the electoral process should have the best possibilities and equal legal conditions for a legitimate political competition at elections;
- 2.12. to strive to grant the right to elect and be elected in elections for bodies of local administration (bodies of local self-government) enjoyable to foreign nationals and stateless persons who reside permanently on lawful grounds in the territory of the Party to this Convention, provided they meet the same criteria as citizens of the state;
- 2.13. to take legislative measures to regulate the list of violations of the electoral rights and freedoms of individuals and other election participants as well as the grounds and procedure for calling to account the persons who use coercion, fraud, threats, forgery, technologies or other methods to prevent the free exercise by individuals or other election participants of the electoral rights and freedoms.
- 2.14. to take measures to ensure that the election campaign is conducted under conditions of public safety and calmness, to thwart any attempts at violence, intimidation, or similar actions or threats in the course of elections.

Article 22

Rights Granted Irrespective of this Convention

1. Nothing in this Convention prevents the states from, or restricts them in, the fulfilment of their international obligations relating to the electoral rights and freedoms of individuals or other election participants assumed under international treaties and agreements to which they are a party.
2. The exercise of the rights set forth in this Convention shall not hinder the exercise of universal human rights and fundamental freedoms by all persons.
3. Nothing in this Convention shall interfere with the efforts of the States to promote the electoral rights and freedoms of individuals, all election participants, including candidates and political parties (coalitions), and to strengthen the guarantees for the electoral rights and freedoms set forth in this Convention.
4. Nothing in this Convention may be interpreted as allowing any activity which runs counter to the objectives and principles of the Council of Europe, including the principles of the respect for sovereign equality, territorial integrity and political independence of states.

Article 23

Signing, Ratification and Entry into Force of the Convention

1. This Convention shall be open for signature by Member States of the Council of Europe. Before the date of its entry into force this Convention shall be also open for signature by

any other state invited to sign it by the Committee of Ministers. This Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance, or approval of this Convention shall be deposited with the Secretary General of the Council of Europe.

2. This Convention shall enter into force on the first day of the month following the elapse of three months from the date as of which fifteen members of the Council of Europe express their consent to be bound by this Convention in accordance with the provisions of Paragraph 1 of Article 23.

3. For any other state which subsequently expresses its consent to be bound by the provisions of this Convention it shall enter into force on the first day of the month following the elapse of three months from the date at which the instrument of its rectification, acceptance or approval was deposited with the Secretary General of the Council of Europe.

Article 24 **Accession**

1. After entry into force of this Convention and consultations with the Contracting States, the Committee of Ministers of the Council of Europe may, by a decision adopted by a majority vote as provided in Paragraph "d", Article 20 of the Statute of the Council of Europe, make a proposal to accede to the Convention to any state that is not a member of the Council of Europe but was invited to sign the Convention in accordance with Paragraph 1 of Article 23 and has not yet done so, or to any other state which is not a member of the Council of Europe.

2. For any state acceding to this Convention it shall enter into force on the first day of the month following the elapse of three months from the date at which an instrument of accession was deposited with the Secretary General of the Council of Europe.

Article 25 **Presentation of Information**

The Parties shall present periodically to the Secretary General of the Council of Europe a report on the legislative and other measures taken by way of implementation of the provisions of this Convention. The first report shall be presented within the year following the entry into force of the Charter with respect to the Party concerned.

Article 26 **Denunciation**

1. Any Party may denounce this Convention at any time by serving a notice of denunciation on the Secretary General of the Council of Europe.

2. Denunciation shall take effect on the first day of the month following the last month of a six-month period, which elapses from the day on which the Secretary General of the Council of Europe received the notice indicated in Paragraph 1 of this article.

Article 27 **Notification**

The Secretary General of the Council of Europe shall notify Member States of the Council of Europe, other states, which signed this Convention and all states which acceded thereto of the following:

- (1) any signature of the Convention;
- (2) the deposit of any instrument of ratification, acceptance or accession;

- (3) the date of entry into force of this Convention in accordance with Paragraphs 2, 3 of Article 23 and Paragraph 2 of Article 24;
- (4) any other act, notification or communication relating to this Convention;

In witness whereof, the undersigned, being duly authorized thereto, have signed this Convention.

Done in Strasbourg, this day of _____, in English and in French, both texts being equally authentic, in a single original which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit a certified copy to each Member State of the Council of Europe and to each state invited to sign or accede to this Convention.