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Or. Engl.

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

**QUESTIONNAIRE**  
**ON THE CANCELLATION OF ELECTION RESULTS**

**Adopted by the Council for Democratic Elections**  
**at its 23<sup>rd</sup> meeting**  
**(Venice, 13 December 2007)**  
**and the Venice Commission**  
**at its 73<sup>rd</sup> plenary session**  
**(Venice, 14-15 December 2007)**

**on the basis of comments by**  
**Mr Oliver KASK (Member, Estonia)**

**A. Legal basis for the cancellation of electoral results**

1. Are there constitutional or legislative provisions which stipulate the terms under which electoral results have to be or may be cancelled?
2. Is the cancellation only a possible consequence of an established violation of law (i.e. the competent authority can act in its discretion) or are there cases when the cancellation is compulsory? If it is compulsory, which are these cases?
3. What kind of contravention of the law can serve as a basis for cancellation
  - a) Established non-compliance with eligibility criteria (including, if applicable, the insufficient number of signatures?)
  - b) Contravention of the electoral laws and regulations (with special attention to the campaign rules and the rules of voting procedures)?
  - c) Contravention of the other laws, such as established violation of the criminal or the civil code in relation to election related activities?
4. Can only the candidates' activities (contraventions to the law) lead to cancellation or can the activities of others be taken into account (e.g. contravention to campaign rules by media or other in favour of, but without the knowledge of a candidate)?
5. Does the cancellation affect only the result of the candidate who is involved or concerned by the contravention to the law or the entire result of the elections?
6. If the results of an election are cancelled, is the candidate concerned excluded from standing for the repeated elections or not?

**B. Procedure for the cancellation of electoral results**

1. Which authority is competent to certify the electoral results?
2. If the competent authority to certify electoral results is not a judicial body, is a court involved in the certifying procedure?
3. Is there a specific body in charge of the control of finance in the electoral field?
4. What is (are) the competent bod(ies) for deciding on complaints against the certification of election results?
5. Who may appeal the decision on certifying electoral results?
6. What is the time-limit for appealing the decision on certifying electoral results?
7. Is there a time-limit set up for the judiciary (the appeal body) to make a decision on the appeal on the decision on certifying electoral results?
8. Does the judicial body (the appeal body) deciding the cancellation of election results have the authority to collect evidence or should it be presented by the parties?
9. If the violation of the law is limited to few polling stations, do the results of the whole constituency have to be cancelled or only those of the concerned polling stations?
10. May any authority (i.e. election management bodies or judicial appeal bodies) cancel the results of an election after the elected candidate is fully installed? If yes, what is the consequence of this decision regarding the mandate of the elected candidate?

**C. Case-law**

1. Is there any case-law concerning the cancellation of electoral results?
2. If so, are there any cases which resulted in cancellation? If yes, what were the reasons for cancellation?