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Or. Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

50th MEETING
OF THE COUNCIL FOR DEMOCRATIC ELECTIONS

Venice, 19 March 2015 at 10 a.m.

MEETING REPORT

**This document has been classified restricted on the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

1. Adoption of the agenda

The Council adopted its agenda as it appears in this document.

2. Election of a Chair

Mr Gross' mandate in the Council for Democratic Elections has not been renewed; the Council was invited to elect a new Chair.

The Council elected Mr Jos Wiene as its Chair. Mr Xuclà informed the Council that he had agreed with Mr Wiene that the latter would resign after 18 months in order for a new election to take place.

3. Report on proportional electoral systems: the allocation of seats inside the lists (open/closed lists)

At its December meeting the Council for Democratic Elections endorsed a first version of the draft report on proportional electoral systems: the allocation of seats inside the lists (open/closed lists) prepared on the basis of comments by Mr Barrett, Mr Kask, Mr Mifsud Bonnici and Mr Kåre Volla (expert, Norway) ([CDL\(2014\)051](#)).

Following the suggestions for revision made at the Council's last meeting, the Secretariat prepared, in co-operation with the rapporteurs, a slightly modified version of this report ([CDL\(2015\)016](#)). See also the revised comparative table ([CDL\(2015\)015](#)).

Mr Kask presented the report. This issue was already briefly raised in the Code of Good Practice in Electoral Matters ([CDL-AD\(2002\)023rev](#)) and in the report on electoral systems – Overview of available solutions and selection criteria ([CDL-AD\(2004\)003](#)), but this was the first detailed comparative study on this matter submitted to the Council. This issue has close link to the issue of the designation of candidates inside Political Parties (item 5). In fact, democracy is limited if closed lists are combined with no democratic structure of Political Parties. The report showed the very different forms of open lists, including the single transferable ballot (without candidate lists), carried out in two countries. It indicated in detail the different types of instruments which exist in open list systems, such as deletion, cumulative vote, cross-voting systems as well as the question of thresholds.

The Council adopted the Report on Proportional Electoral Systems: the Allocation of Seats inside the Lists (Open/Closed lists) ([CDL-AD\(2015\)001](#)).

4. Electoral lists and voters abroad

In accordance with the decision taken by the Council at its last meeting Ms Alanis Figueroa and Ms Christina Binder (expert, Austria) have prepared comments ([CDL-EL\(2015\)003](#) and [CDL-EL\(2015\)004](#)) on the Secretariat memorandum ([CDL-EL\(2013\)011](#)).

On the basis of case studies relating to Bulgaria (by Mr Tanchev), Moldova (by Mr Iure Ciocan, expert and Mr Esanu) and Tunisia (by Mr Mohamed Krir, expert), the Secretariat prepared a summary report on this issue ([CDL-EL\(2015\)009](#)), which was submitted to the Council. The Secretariat presented this draft, which emphasised the main problems concerning voters abroad: voter registration – generally active - and measures against double registration, the

establishment of polling stations, the vote itself; the report underlined more particularly the problem of citizens residing *de facto* abroad but who remain on electoral lists in the country.

The final draft of the Congress' report on "Electoral lists and voters residing *de facto* abroad" (see CG/2015(28)6PROV) will be submitted to the Congress for adoption on 24 March 2015. Mr Wiener underlined that the report recommends that a genuine link should exist for local elections (residence).

Discussions followed on the next steps to be taken. The Council will not be drawing up a new report on voting abroad (cf. [CDL-AD\(2011\)022](#)) but will rather develop the specific issue of voters residing *de facto* abroad.

The Council took note of the information report on electoral lists and voters abroad in Bulgaria, Moldova and Tunisia ([CDL-PI\(2015\)003](#)).

The issue of electronic voting should in particular be raised for voters abroad. Mr Friederich informed the Council that the GR-DEM had just adopted the mandate of the expert group on electronic voting, which should propose a new Recommendation before the end of the year with the participation of the Council for Democratic Elections/Venice Commission, the Parliamentary Assembly and the Congress.

5. Report on the method of nomination of candidates within political parties

A first draft of the report on the method of nomination of candidates within political parties was submitted to the Council ([CDL-EL\(2015\)006](#)). It is based on comments by Ms Alanis and Ms Biglino. This report falls in the framework of the work on measures to improve the democratic character of elections in the member States of the Council of Europe (see [Doc. 13021](#), item 3 above). The Secretariat has introduced into a table all the replies received to the questionnaire on this subject, as well as additional information concerning both the relevant national legal provisions and the practice of political parties ([CDL\(2015\)007](#)). The table contains information concerning 50 countries.

Ms Alanis presented the draft and stated that it is based on a questionnaire dealing with not only the member States of the Venice Commission but a certain number of Latin American States which are not members. It reflects a great diversity which results from both the legal norms and the internal practice of parties. The first part is devoted to a state of play; the second deals with the legal approach relating to the designation of candidates within parties, and the third deals with the evaluation of specific elements of the internal democracy of parties (gender balance and minorities). The liberal model, according to which the State does not legislate on the question, is losing ground (in particular concerning quotas, but also, more generally, the basic principles of democracy, more specifically transparency, accountability and equality).

During the discussion, it was stressed that, in particular in new democracies, it could be desirable that the law imposes democracy within parties, but it should be ensured that this law is not misused to harm certain parties. In addition, internal democracy is required even more if lists are closed.

Ms Alanis stated that a revised draft would be submitted to the Council in June with a view to adoption. It will take into account the need to guarantee access to justice.

6. Guidelines on the misuse of administrative resources – Roadmap (information item)

Following the adoption of the report on the misuse of administrative resources during the electoral process ([CDL-AD\(2014\)033](#)) and the 11th European Conference of Electoral Management Bodies on this theme, the Venice Commission will prepare guidelines. The aim is to adopt the guidelines by the end of 2015.

Mr Wiene stated that the Congress will prepare a report on the role of local representatives in the prevention of the misuse of administrative resources. This report should be adopted in March 2016.

7. European Conference of Electoral Management Bodies (information item)

The Secretariat informed the Council on progress in the preparation of the 12th European Conference of Electoral Management Bodies which will take place in Brussels on 30 and 31 March 2015 on “Ensuring neutrality, impartiality and transparency in elections: the role of Electoral Management Bodies”. The Conference is organised in co-operation with the Ministry of the Interior of Belgium and falls in the framework of the Belgian Presidency of the Committee of Ministers of the Council of Europe.

This Conference will bring together around 150 participants from numerous countries from nearly all continents as well as from international institutions. The Conference is devoted to the subject “Ensuring neutrality, impartiality and transparency in elections: the role of Electoral Management Bodies”.

The debates will focus on three key subjects:

- The essential elements for neutral, impartial and transparent elections
- The composition and functioning of electoral management bodies: good practice
- The complementary tools to the work of electoral management bodies: electoral disputes, election observation and media coverage

The Conference will adopt a final declaration at its closing session.

It should be noted that the 13th edition of the Conference will take place in Bucharest on 14-15 April 2016 and will be organised in co-operation with the Permanent Electoral Authority of Romania. The theme is currently being discussed with the Electoral Authority and will then be discussed with the Initiative Group of Electoral Administrations. Contact has been made with the Permanent Electoral Authority of Romania, which edits a magazine “Electoral expert”, to have the conference followed by a scientific event with a publication in this magazine.

8. Information about the current work and future activities

- *Communication by the Secretariat*
 - Eligibility for local and regional elections
The Congress’ final draft report on “Criteria for standing for local and regional elections” (see [CG/2015\(28\)7PROV](#)) will be submitted to the Congress for adoption on 26 March 2015.

Mr Delcamp stressed that the report is a good example of the co-operation between the Council for Democratic Elections and the Congress. The Congress has received comments from the Council for Democratic Elections and the Secretariat, therefore the report is to some extent the work of the

Venice Commission. It is desirable that the co-operation between the Venice Commission and the Congress continue.

- Since the Council's December 2014 meeting the following activities have taken place in the electoral field:
 - Meeting on electoral reform in Ukraine (Strasbourg, 27-28 January 2015)
 - Participation in an International Conference on "Human Rights and electoral standards" (Atlanta, 11-12 February 2015)
 - Participation in a Conference on the reform of the law on local elections of Ukraine (Kyiv, 27 February 2015)
 - Round Table on Election Dispute Resolution (Warsaw, 9-10 March 2015, see below)

In addition to the 12th European Conference of Electoral Management Bodies, the following activities will take place in the near future:

- Post Electoral Conference in Moldova (Chisinau, 23-24 March 2015). Mr Gonzalez Oropeza will represent the Venice Commission accompanied by Ms Ubeda
 - Second International Conference organised by the Permanent Electoral Authority of Romania on "Electoral Integrity and Regional Co-operation" (Bucharest, 25-26 March 2015). Mr Tanchev will represent the Commission
- The Venice Commission will co-organise an electoral Conference with the Parliamentary Assembly of the Council of Europe which will take place at the French National Assembly on 4-5 June 2015.

This Conference, organised under the patronage of the President of the National Assembly is aimed at Members of Parliaments from countries concerned by the European Union Eastern Partnership Programme.

The theme is: *The principle of the right to free elections: the challenge of implementing the law and the respect of Council of Europe standards*

The five working sessions are:

- Council of Europe standards in the field of elections
- How to improve legal frameworks and overcome difficulties in their application by the relevant authorities?
- Election campaigns: between use and abuse of administrative resources. What legal and practical solutions?
- Inaccuracies in voter lists and difficulties related to the vote of citizens residing abroad. What legal and practical solutions?
- The functioning of electoral administration and the challenge of neutrality and impartiality. What legal and practical solutions?

Several members and experts, as well as the Secretariat will take part in this event.

- The Presidency of the Italian Council of Ministers has sent to the Venice Commission a request from the Provincial Council of the Trento Province for an Opinion on a Citizens' Initiative Bill on Public Participation, Citizens'

Initiative, Referendums and Popular Initiative and Amendments to the Provincial Electoral Law. A draft opinion should be submitted to the Council at its June 2015 meeting. A visit to the country will take place on 27 May. The rapporteurs are Mr Castella Andreu, Ms Kiener, Mr Maiani and Ms Peters.

The Secretariat indicated that the Council and the Commission should be involved in the issue of “decriminalisation” of the Albanian parliament, i.e. the means to exclude criminal elements. The secretariat will prepare comparative data on the ineligibility under national law. A Round Table should be organised.

Mr Kask is interested in taking part in this work.

- *Co-operation with the OSCE/ODIHR*

An exchange of views took place with the representatives of the OSCE/ODIHR on the possibilities of future co-operation.

Mr Martin informed the Council on future activities of the OSCE/ODIHR in the electoral field: a limited mission observing the presidential elections in Uzbekistan; a mission observing the presidential elections in Kazakhstan; a mission to identify the needs for the local elections in Albania on 21 June; a limited mission observing the parliamentary elections in Turkey (7 June); the OSCE/ODIHR is prepared to be involved in the local elections in Ukraine.

Mr Chahbazian informed the Council that the Parliamentary Assembly will observe the parliamentary elections in Turkey.

An expert workshop on the observation of the financing of electoral campaigns will take place on 9-10 April 2015 on the basis of an OSCE/ODIHR publication on this issue.

Mr Martin presented the Round Table on Election Dispute Resolution held in Warsaw on 9-10 March 2015 which brought together 35 participants representing the authorities and the civil society of States from the Eastern Partnership. The Venice Commission was represented. The main conclusion was to increase assistance to the OSCE/ODIHR in this field.

9. Date of the next meeting

The Council fixed its next meeting for Thursday 18 June 2015 at 10 a.m.

At this occasion, Ms Weesing-Loeber (expert, Netherlands), will comment on the work of the Venice Commission in the electoral field.

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

VENICE COMMISSION / COMMISSION DE VENISE

Members of the Council for Democratic Elections (CDE) / Membres du Conseil des Elections démocratiques (CED)

Ms Maria del Carmen ALANIS FIGUEROA
Mr Srdjan DARMANOVIC
Mr Aivars ENDZINS
Mr Oliver KASK (**Vice-Chair/Vice-Président**)

Substitute Members of the CDE / Membres suppléants du CED

Mr Richard BARRETT (excusé/apologised)
Ms Paloma BIGLINO CAMPOS (excusée/apologised)
Mr Paul CRAIG (excusé/apologised)
Mr Ben VERMEULEN

Other members who participated at the meeting / Autres membres ayant participé à la réunion

M. Gianni BUQUICCHIO (President/Président)
M. Nicolae ESANU
Mr Evgeni TANCHEV

Secretariat / Secrétariat

M. Thomas MARKERT
M. Pierre GARRONE
Mr Serguei KOUZNETSOV

PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIRE

Members / Membres

Mme Josette DURRIEU, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie (excusée/apologised)
Mr Michael McNAMARA, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme (excusé/apologised)
Mr Jordi XUCLÀ, Monitoring Committee/ Commission de suivi

Membres suppléants / Substitute Members

Ms Tinatin KHIDASHELI, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie
Mr José Maria BENEYTO, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme
Mr Tiny KOX, Monitoring Committee/ Commission de suivi (excusé/apologised)

Secretariat / Secrétariat

Mr Chemavon CHAHBAZIAN
Mr Bas KLEIN

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF THE COUNCIL OF EUROPE (CLRAE) / CONGRES DES POUVOIRS LOCAUX ET REGIONAUX DU CONSEIL DE L'EUROPE (CPLRE)

Members / Membres

Mr Stewart DICKSON, Chamber of Regions/Chambre des régions (excusé/apologised)

Mr Jos WIENEN, Chamber of Local Authorities/Chambre des pouvoirs locaux
(Chair/Président)

Expert

M. Alain DELCAMP

Secretariat / Secrétariat

Ms Renate ZIKMUND

DIRECTORATE GENERAL OF DEMOCRACY / DIRECTION GENERALE DE LA DEMOCRATIE (DGII)

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Mr Steven MARTIN

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European External Action Service (EEAS) / Service européen pour l'action extérieure (SEAE)

(excusé/apologised)