



Strasbourg, 1 April 2016

CDL-EL-PV(2016)001*
Or. Engl./Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

54th MEETING
OF THE COUNCIL FOR DEMOCRATIC
ELECTIONS

Venice, 10 March 2016 at 10.00 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 document [CDL-EL-OJ\(2016\)001ann.](#)

2. Guidelines for preventing and responding to the misuse of administrative resources during electoral processes

Following the adoption of the report on the misuse of administrative resources during electoral processes in December 2013 ([CDL-AD\(2013\)033](#)) and the 11th European Conference of Electoral Management Bodies on this theme, two versions of guidelines on this issue, prepared on the basis of comments by Mr Barrett, Mr González Oropeza, Mr Hirschfeldt, Mr Kalchenko and Mr Kask, were discussed at the June and October meetings respectively. The second version was drawn up jointly with the OSCE/ODIHR taking into account the informal comments of the Secretariats of the Congress of Local and Regional Authorities and of the Group of States against corruption (GRECO) of the Council of Europe. The Rapporteurs prepared a revised version of the document, which in particular took into account written comments which had been received and was presented to the Council with a view to adoption ([CDL\(2016\)009](#)).

Mr González Oropeza introduced the draft document. He referred to the background of the topic, especially to the Report adopted by the Venice Commission in 2013. Mr González Oropeza reminded the Council that these Guidelines address lawmakers who are invited to make use of them in order to reinforce the existing legislation on the use of administrative resources during electoral processes. Moreover, he underlined that many countries do not have such provisions. He added that these Guidelines are aimed not only at preventing but also at responding to the misuse of administrative resources during electoral processes. Following this presentation, Mr Richard Lappin underlined the OSCE/ODIHR's support for the Guidelines. Following written comments from Mr Vermeulen received by the Venice Commission Secretariat before the meeting, the Secretariat submitted draft amendments to the Council. The in-depth discussion dealt mainly with the rights and limitations of the rights of civil servants involved in elections, as supporters or as candidates. A few other substantive topics were discussed, including the issue of reporting on campaign financing.

The Council adopted the draft joint Guidelines for preventing and responding to the misuse of administrative resources during electoral processes ([CDL-AD\(2016\)004](#)).

3. Armenia – New Electoral Code

By letter dated 15 January 2016, the Minister of Justice of Armenia requested the Venice Commission's co-operation on the reform of the electoral code. The revised Constitution, adopted on 6 December 2015, stipulates that the new code be adopted before 1 June 2016 (article 210). On 15 February 2016 the new draft code was submitted to the Commission for expertise; an opinion will be prepared jointly with the OSCE/ODIHR. The rapporteurs visit to Armenia will take place during the week after the session; they will meet the different people involved in the electoral process (authorities, political parties, NGOs). Given the urgency of the matter, the Venice Commission will be invited to authorise the rapporteurs (Mr Barrett, Ms Biglino, Mr Tanchev and Mr Vollan – expert) to send a preliminary opinion to the Armenian authorities prior to the June session. The Council and the Commission will be invited to endorse the draft opinion at their respective June 2016 meetings.

4. Georgia – Amendments to the Election Code

The Georgian authorities requested an opinion from the Venice Commission on amendments to the Election Code ([CDL-REF\(2016\)004](#)), which entered into force on 8 January 2016, regarding the redrawing of constituencies and moving to an absolute majority system (respectively [CDL-REF\(2016\)001](#) and [CDL-REF\(2016\)005](#)).

The Council held a discussion on the draft opinion jointly prepared by the Venice Commission and the OSCE/ODIHR ([CDL\(2016\)004](#)), and drawn up on the basis of comments by Mr González Oropeza, Mr Kask and Ms Kseniya Dashutina, OSCE/ODIHR election expert.

The Council was also invited to consider draft amendments submitted by the Secretariats of the Venice Commission and the OSCE/ODIHR aimed at taking into account the English translation of the decision of the Constitutional Court of Georgia on the delimitation of single-member constituencies (of 28 May 2015), received on 2 March 2016 by the Commission.

Mr Kask introduced the draft joint opinion as well as the draft amendments. He explained the background, especially the long-standing recommendations of the Venice Commission and the OSCE/ODIHR to reduce the deviation between single-member constituencies in order to satisfy the principle of equal suffrage as contained in the Code of Good Practice in Electoral Matters. Mr Kask also explained that these amendments to the Election Code of Georgia followed a decision of the Constitutional Court of 28 May 2015 declaring the previous delimitations of single-member constituencies unconstitutional, breaching the principle of equal suffrage. He pointed out that the Election Code as revised fulfilled the requirements of the Code of Good Practice regarding the principle of equal suffrage.

The opinion was however critical on a number of issues. Despite the reduction in deviations in the number of voters, significant concerns were noted related to how the boundary delimitation process was undertaken and managed by the government. In particular, the detailed delineation of 30 constituencies located within the four largest cities had yet to be finalised. Furthermore, there had been a lack of inclusive consultation among political stakeholders and the amendments had been adopted less than one year before the forthcoming parliamentary elections, in breach of the recommendation of the Code of Good Practice in Electoral Matters in this respect. There remained limited time to finalise the redistricting and to ensure that all potential contestants as well as voters were sufficiently informed of all changes.

Ms Beselia reminded the Council of the reasons for such amendments to the Election Code of Georgia.

Following these presentations and a brief discussion on the draft opinion and on the draft amendments submitted, the Council adopted the draft joint opinion as revised with the draft amendments proposed by both institutions.

The Council adopted the draft joint opinion on amendments to the Election Code of Georgia ([CDL-AD\(2016\)003](#)).

5. Publication of lists of voters having participated in elections

The Council for Democratic Elections was invited to analyse the question of the possible publication of lists of voters having participated in elections, in the light of the memorandum prepared by the Secretariat on this issue ([CDL-EL\(2016\)003](#)). The Code of Good Practice in Electoral matters is not in favour of this practice, but the question is still discussed, for example

in Armenia, following allegations of fraud in particular due to identity theft of voters *de facto* abroad.

The Council could not reach a final agreement on this subject and agreed to undertake further work on this issue. The Council will return to this matter at a future meeting. The Council however agreed that the list of voters actually voting, should not be made public, in accordance with the Code of Good Practice in Electoral Matters. The Council also indicated that, in specific circumstances, those who presented the lists of candidates to be elected could have access to lists of voters having participated in elections.

6. Co-operation with the Organization of American States

This item was postponed due to the absence of representatives from the Organization of American States.

7. Co-operation with the OSCE/ODHIR

An exchange of views took place with Mr Richard Lappin, representative of the OSCE/ODIHR, on the co-operation with this institution. Mr Lappin informed the Council of current and future activities in the electoral field. He underlined the excellent co-operation with the Venice Commission, the Parliamentary Assembly and the Congress during recent activities. This successful co-operation took place in the context of election observation activities, legal opinions, expert visits and various roundtables.

Mr Lappin indicated that the OSCE/ODIHR will closely co-operate with the Parliamentary Assembly and/or the Venice Commission on the occasion of the forthcoming election observation missions to Kazakhstan (20 March), Serbia (24 April) and “the former Yugoslav Republic of Macedonia” (5 June). He also informed the Council about forthcoming publications by the OSCE/ODIHR, more specifically the imminent publication of the Handbook on Follow-up of Electoral Recommendations and the upcoming publication of the Guidelines on Political Party Regulation, jointly prepared with the Venice Commission.

8. Information on current and future activities

Since the Council’s December 2015 meeting the following activities, organised by the Venice Commission or in which the Venice Commission participated, have taken place in the field of elections and political parties:

- Conference on the results of the 25 October 2016 local elections in Ukraine (Kyiv, 16-17 December 2015);
- Conference organised by the Carter Center on human rights and electoral standards (Atlanta, 14-15 January 2016);
- “Electoral System Week” including an “electoral systems workshop”, a workshop on “Electoral system design and the increased participation of women in politics” as well as a national Round Table (Kyiv, 2-4 February 2016);
- 6th Meeting of Electoral Management Bodies (Kakheti, Georgia, 16-17 February 2016), on the theme of “Electoral integrity”;
- A regional Conference on “Money in Politics” (Tbilisi, 18-19 February 2016).

The following activities are already planned from the 54th meeting of the Council for Democratic Elections to the next meeting:

- 1st “Electoral Expert” debates (Bucharest, 12-13 April 2016) on “electoral law and new technologies”. The reports prepared for this Conference will be published in the review “Electoral Expert” edited by the Permanent Electoral Authority of Romania. These “Electoral Expert” debates should take place on a regular basis;
- The 13th European Conference of Electoral Management Bodies (Bucharest, 14-15 April 2016) on the theme “new technologies in elections: public trust and challenges for electoral management bodies”;
- Depending on the progress of constitutional revision in Ukraine, activities relating to the two drafts on electoral reform registered at the Rada will be organised over the forthcoming months.

The Council also discussed potential future transversal studies. Such studies may be developed on the issues of gerrymandering and the identification of electoral fraud by statistical means. The Congress representatives as well as Messrs González Oropeza and Kask expressed their interest in a future study on gerrymandering.

9. Date of the next meeting

The Council fixed its next meeting for Thursday 9 June 2016 at 10.00 a.m.

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

VENICE COMMISSION / COMMISSION DE VENISE

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

Ms Maria del Carmen ALANIS FIGUEROA (excusée/apologised)

Mr Srdjan DARMANOVIC (excusé/apologised)

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 of the Venice Commission / Autres membres de la Commission de Venise

Mr Manuel GONZALEZ OROPEZA

Secretariat / Secrétariat

Mr Thomas MARKERT

Mr Pierre GARRONE

Mr Gaël MARTIN-MICALLEF

Experts

Mr Alberto GUEVARA CASTRO

Mr Serhii KALCHENKO

PARLIAMENTARY ASSEMBLY / ASSEMBLÉE PARLEMENTAIRE

Members / Membres

Lord Richard BALFE, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme (excusé/apologised)

Ms Josette DURRIEU, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie

Mr Jordi XUCLÀ, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe/Commission pour le respect des obligations et engagements des Etats membres du Conseil de l'Europe

Substitute members / Membres suppléants

Ms Eka BESELIA, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme

Secretariat / Secrétariat

Mr Chemavon CHAHBAZIAN (excusé/apologised)

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES (CLRAE) / CONGRES DES POUVOIRS LOCAUX ET REGIONAUX (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**)

Secretariat / Secrétariat

Ms Renate ZIKMUND

Expert / Experte

Ms Christina BINDER

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

Mr François FRIEDERICH

OBSERVERS / OBSERVATEURS

ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE)

Office for Democratic Institutions and Human Rights (ODIHR) / Bureau des institutions démocratiques et des droits de l'Homme (BIDDH)

Mr Richard LAPPIN

EUROPEAN UNION / UNION EUROPEENNE

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

Mr Emanuele GIAUFRET (excusé/apologised)

European Parliament / Parlement européen

Mr Pietro DUCCI, Democracy and Elections Unit (excusé/apologised)

INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE (INTERNATIONAL IDEA)

Excusé/apologised