



Strasbourg, 6 January 2021

CDL-EL-PV(2020)003*
Or. Engl./Fr.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

70th MEETING
OF THE COUNCIL FOR DEMOCRATIC
ELECTIONS
On-line meeting
10 December 2020, 10 – 12:30

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 the present document CDL-EL-OJ(2020)003ann.

2. Study – principles on the use of digital technologies and elections

Ms Kjerulf Thorgeirsdottir informed the Council that, after the adoption of the [Report on digital technologies and elections](#), the Venice Commission had decided to draft principles addressed to law-makers and major actors in this field, such as powerful internet companies. The main challenge was to find the right balance between different fundamental rights and interests at stake. The Council had already examined an earlier version of the draft principles in June and October, which had been further revised in the meantime on the basis of comments received from Council and Commission members, relevant departments of the Council of Europe and other international actors.

The current version included eight principles centred on freedom of expression in the digital environment, removal by private companies of clearly defined third-party content from the internet upon request by a competent impartial body, the open internet and net neutrality which was one of the basic principles of the internet and recognised in European standards, personal data protection, periodical review of rules and regulations on political advertising and on the responsibility of internet intermediaries, regulations and institutional capacities to fight cyberthreats, international cooperation and public-private cooperation as well as self-regulatory mechanisms.

Mr Shlyk, Head of the ODIHR Elections Department, congratulated the Rapporteurs for this achievement. He stressed that this document could be used, inter alia, for the current preparation of principles for election observation related to digital technologies, by the working groups set up by the subscriber organisations to the Declaration of Principles for International Election Observation (DoP).

Mr Kask pointed out that the principles should be presented to national and international stakeholders and could be the basis of further work in this area. The secretariat referred in this connection to the ongoing co-operation of the Commission with other relevant Council of Europe bodies. In particular, it was planned to present the principles to the Ad hoc Committee on Artificial Intelligence (CAHAI) during its 3rd plenary session on 15 December. Moreover, the German Presidency of the Council of Europe had expressed the view that these principles should be borne in mind for the Ministerial Session in May 2021.

The Council approved the Principles for a fundamental rights-compliant use of digital technologies in electoral processes ([CDL-AD\(2020\)037](#)).

3. Electoral Glossary

The Council examined the draft revision of the electoral glossary. The Secretariat recalled that the glossary was last revised in 2016. The current revision consists firstly, of the addition of a number of new terms. Secondly, some expressions have been removed from the glossary because they were no longer in use, or because they were not specifically related to the electoral field, or because some expressions are commonly used and known and do not or no longer need to be included in the electoral glossary. Finally, this revision made it possible to add notes explaining several technical expressions. Once adopted, the glossary would be transmitted to the Council of Europe Terminology Service and would also be available online.

The Council took note of the revised Electoral Glossary ([CDL-PI\(2020\)021](#)).

4. Joint opinion – Albania - Electoral law - Amendments to the Constitution of 30 July 2020 and to the Electoral Code of 5 October 2020

Mr Holmøyvik explained that the amendments under consideration did not bring any dramatic change but had to be seen in the political context of Albania where nearly all opposition MPs had left Parliament to create an extra-parliamentary opposition, being partly replaced by candidates who appeared lower on the list (which now constitute the parliamentary opposition). The amendments submitted to the opinion of the Venice Commission and ODIHR follow a series of amendments adopted consensually on 23 July.

The main problem identified by the opinion was the extremely hasty adoption of the amendments to Albania's Constitution of 30 July 2020 and to the country's Electoral Code of 5 October 2020, as well as the lack of wide consultations providing adequate timeframe among political stakeholders and non-governmental organisations.

While most recommended amendments to the electoral legislation should be implemented after the parliamentary elections scheduled for 25 April next year, several more pressing ones, which would not imply legislative amendments, needed to be put to practice before the elections. In particular, all authorities should enter into a constructive dialogue and do their utmost to implement the electoral law on time; leaders of the political parties should refrain from standing as candidates in multiple constituencies. Legislative amendments to be addressed after the next parliamentary elections concerned in particular abolishing this possibility to compete in several constituencies and introducing the possibility for individual candidates to appeal against the allocation of seats inside a list.

Mr Shlyk underlined ODIHR's involvement in the process leading to the 23 July amendments and in particular in the Political Council which included representatives of the extra-parliamentary opposition.

Mr Kask stated that some recommendations made by the international community, including in the [2012 Joint Opinion](#), were still outstanding, such as the abolition of the possibility of removing members of election commissions at will. The Constitutional Court was not yet functional which represented a serious hurdle, and the corruption level remained high.

Ms Granata-Menghini confirmed that the issue of making the Constitutional Court functional again was very urgent and that the delay was due not only to the invalidation of some candidates during the vetting procedure but also to the very complex system of replacement of seats at the Court: the outstanding length of some vacant mandates would be so short as to discourage candidatures. The Venice Commission had suggested to amend the Constitution and the law to simplify the appointment procedure. Ms Granata-Menghini also reminded that the implementation of the ODIHR's recommendations concerning the electoral legislation was a condition for the opening of accession negotiations with the European Union.

5. Co-operation with OSCE/ODIHR

Mr Shlyk informed the Council of the recent and future activities, starting by the elections observed since October 2020, specifically in Kyrgyzstan, Lithuania, Tajikistan, Ukraine, Georgia, the Republic of Moldova (two rounds), the United States of America and Romania. Additionally, ODIHR has just deployed election observation missions to Kazakhstan and Kyrgyzstan, both scheduled for 10 January 2020. Regarding ODIHR electoral assistance, the Western Balkans Follow-up Project of 2017-2020 is coming to an end and the second very similar project will start from early 2021. Last but not least, ODIHR organised an Annual Election Seminar with a special topic of Special Voting Methods and Arrangements, where representatives of EMBs from the

Russian Federation and the United States intervened, as did a representative of the Polish citizen observer group.

6. Date of the next meeting

The Council fixed the date of its next meeting for Thursday, 18 March 2020 at 10.00 am.

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)

Mr Srdjan DARMANOVIC

Mr Ben VERMEULEN

Mr Oliver KASK

Ms Janine OTÁLORA MALASSIS (apologies)

Substitute Members of the CDE / Membres suppléants du CED

Mr Richard BARRETT

Mr Eirik HOLMØYVIK

Ms Katherina PABEL

Mr Pere VILANOVA TRIAS (apologies)

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

Ms Herdís KJERULF THORGEIRSDOTTIR

Mr Rafael RUBIO NUÑEZ

Secretariat / Secrétariat

Ms Simona GRANATA-MENGHINI

Mr Pierre GARRONE

Mr Gaël MARTIN-MICALLEF

Mr Michael JANSSEN

Experts

PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIRE

Members / Membres

Mr Antonio GUTIÉRREZ, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme

Mr Piero FASSINO, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie (apologies)

Mr Tiny KOX, Committee on the Honouring of Obligations and Commitments by member States of the Council of Europe (Monitoring Committee)/ Commission pour le respect des obligations et engagements des Etats membres du Conseil de l'Europe (Commission de suivi)

Substitute members / Membres suppléants

Sir Christopher CHOPE, Committee on Legal Affairs and Human Rights/Commission des questions juridiques et des droits de l'homme (apologies)

Mr Corneliu Mugurel COZMANZIUC, Committee on Political Affairs and Democracy/Commission des questions politiques et de la démocratie (apologies)

Mr Aleksander POCIEJ, Committee on the Honouring of Obligations and Commitments by member States of the Council of Europe (Monitoring Committee)/ Commission pour le respect des obligations et engagements des Etats membres du Conseil de l'Europe (Commission de suivi (apologies)

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

Members / Membres

Mr Jos WIENEN, Chamber of Local Authorities/Chambre des pouvoirs locaux (apologies)
Mr Stewart DICKSON, Chamber of Regions/Chambre des régions (apologies)

Substitute members / Membres suppléants

Mr Vladimir PREBILIC, Chamber of Local Authorities/Chambre des pouvoirs locaux (apologies)
Ms Rosaleen O'GRADY, Chamber of Regions/Chambre des régions (apologies)

Secretariat / Secrétariat

Ms Renate ZIKMUND
Mr Adam DRNOVSKY

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

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 Alexander SHLYK, Head of the Election Department

EUROPEAN UNION / UNION EUROPEENNE

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

Mr Riccardo CHELLERI

European Parliament / Parlement européen

INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE (INTERNATIONAL IDEA)

INTERNATIONAL FOUNDATION FOR ELECTORAL SYSTEMS (IFES)

Ms Beata MARTIN-ROZUMIŁOWICZ, Director for Europe and Eurasia (apologies)