



MINISTERU TAL-ĠUSTIZZJA U L-INTERN
Ministry for Justice and Home Affairs



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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

in co-operation with
**THE CONSTITUTIONAL COURT OF MALTA
AND THE MINISTRY OF JUSTICE AND HOME AFFAIRS**

UNIDEM SEMINAR

“CANCELLATION OF ELECTION RESULTS”

Mediterranean Conference Centre, Valletta, Malta

14 – 15 November 2008

SYNOPSIS

The European Commission for Democracy through Law organised in Valletta (Malta) on 14-15 November 2008 a UniDem seminar on "Cancellation of election results", in co-operation with the Constitutional Court of Malta and the Ministry of Justice and Home Affairs. This seminar was aimed at constitutional and supreme courts in charge of electoral disputes.

The subject of this event was chosen on the basis of the following: there is no democracy without elections in conformity with the international principles of electoral law. Respect of these principles is only possible if it may lead to a sanction and in particular to a judicial sanction. In other words, an appeal, and preferably an appeal before a court, has to be possible should there be irregularities in the preparation or the holding of elections.

Around forty participants took part in the seminar, including representatives of constitutional and supreme courts in charge of electoral disputes from various parts of Europe, of the European Court of Human Rights, as well as specialists of electoral law and disputes, practitioners and academicians. They examined in which cases irregularities should lead to the cancellation of election results.

The seminar was opened by Messrs Carmelo Mifsud Bonnici, Minister of Justice and Home Affairs, Vincent de Gaetano, Chief Justice, and Pierre Garrone, Head of division at the secretariat of the Venice Commission.

A first part was dedicated to reports on the issue of the cancellation of election results and, more generally, on electoral disputes. The reports addressed the following themes:

- Justice coming face to face with electoral norms (Slobodan Milacic, France);
- Electoral disputes (Jean-Claude Colliard, France) ;
- Electoral disputes: an issue which falls into the jurisdiction of the constitutional court? (Michael O'Boyle, European Court of Human Rights)
- Cancellation of election results - lessons learned from election observation (André Kvakkestad, Norway).

In a second part, participants studied national replies to a questionnaire on the cancellation of election results. They were called upon to examine the legal (or constitutional) basis for cancelling results, procedures leading to such a cancellation and, of course, the case-law of the various constitutional and supreme courts in this field.

The replies to the questionnaire will be the basis for a comparative study by the Venice Commission, which should be adopted during 2009.

In a third and last part, the participants worked on a practical case including legal provisions which could be problematic vis-à-vis the European electoral heritage, as well as practical irregularities. They had to establish whether, taken separately or together, the circumstances of the case could be considered as a violation of their national law and whether they had to lead to the cancellation of the results.

The conclusions were drawn by Mr Ugo Mifsud Bonnici, President Emeritus of Malta.

The proceedings of the seminar will be published in the series "Science and technique of democracy".