



Parliamentary Project Support Division

Division de soutien de projets parlementaires

PPSD (2017) 20 rev. 6

7 November 2017

REGIONAL CONFERENCE ON “MISUSE OF ADMINISTRATIVE RESOURCES DURING ELECTORAL PROCESSES: A MAJOR CHALLENGE FOR DEMOCRATIC ELECTIONS”

LONDON

9-10 November 2017

*organised by the
Parliamentary Assembly of the Council of Europe (PACE)
and the Venice Commission of the Council of Europe*

*in co-operation with the
Congress of Local and Regional Authorities of the Council of Europe*

**hosted at the House of Commons
by the UK Delegation to the PACE**

DRAFT PROGRAMME

ALL SPEAKERS TO BE CONFIRMED

VENUE:

Portcullis House
Attlee Suite (1st floor)
Bridge Street
SW1A 2LW London
United Kingdom
(Underground Station: Westminster)

Partnership for Good Governance



European Union

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

1. Objectives

The Parliamentary Assembly of the Council of Europe (PACE) has observed over 210 parliamentary and presidential elections in European countries since 1989. The Assembly in its election observation reports, as well as in its resolutions and recommendations on different aspects of electoral processes, frequently pointed out the problem of misuse of administrative resources during electoral processes for campaign purposes, which is a breach of Council of Europe electoral standards. While PACE observes elections at national level and cooperates with national parliaments, the Congress of Local and Regional Authorities observes local and regional elections and is engaged in a series of activities to strengthen ethical conduct and transparency.

The Parliamentary Assembly, the Committee of Ministers, the Venice Commission and the Congress of Local and Regional Authorities have adopted a number of documents in order to try and resolve the problem. In particular, the Venice Commission adopted a Report on the misuse of administrative resources during electoral processes in December 2013 and, based on this report, Guidelines jointly issued with the OSCE/ODIHR in 14 March 2016, aimed at preventing and responding to the misuse of administrative resources during electoral processes. In October 2016, the Congress adopted a report on “The misuse of administrative resources during electoral processes: the role of local and regional elected representatives and public officials”. A new Checklist on misuse of state resources during elections was compiled in close-cooperation with the Venice Commission and adopted by the Congress in March 2017, in order to complement the mentioned report.¹ Nevertheless, despite all these efforts, the problem of misuse of administrative resources persists in its different forms and remains a widespread phenomenon.

As underlined by the 2013 Venice Commission’s Report on the matter, the misuse of administrative resources is indeed an established and widespread phenomenon in many European countries, including countries with a long-standing tradition of democratic elections. Several generations of both incumbents and civil servants consider this practice as normal and part of the electoral process. They do not even seem to consider such practice as an illegitimate action *vis-à-vis* challengers in elections. Consequently, it may be harder for these challengers to take advantage of administrative resources. This phenomenon seems part of an established political culture not only maintaining practices potentially regarded as illegal but also ones created by the lack of ethical standards related to the electoral processes of the public authorities in office. The misuse of administrative resources during electoral processes therefore leads to an uneven playing field between electoral competitors and diminishes the voters’ confidence in elections.

Considering this widespread phenomenon, the Venice Commission suggested the following definition of administrative resources in its Report of 2013: the “administrative resources are human, financial, material, *in natura*² and other immaterial resources enjoyed by both incumbents and civil servants in elections, deriving from their control over public sector staff, finances and allocations, access to public facilities as well as resources enjoyed in the form of prestige or public presence that stem from their position as elected or public officers and which may turn into political endorsements or other forms of support”.³

It should be noted that an electoral process should be understood as a period of time much longer than the electoral campaign as strictly understood in national electoral law. It covers the various steps of an electoral process starting from, for example, the definition of the electoral constituencies, the nomination or the registration of candidates or lists of candidates for competing in elections. This period lasts until the election of public authorities. It includes all activities in support of or against a given candidate, political party or coalition by incumbent representatives before and during the

¹ See all the relevant documents under part “3. Background documents”.

² Like some benefits from social programmes, including goods and in-kind resources.

³ This definition aims at harmonising various expressions that can be found in domestic legislation such as “public resources” or “state resources”. Both expressions are synonyms with “administrative resources”.

election day.⁴ This broad definition covers the multifaceted ways in which administrative resources may be misused during the entire electoral process, not only the official electoral campaign period.

Based on the definition previously retained, the main objective of the Conference is to discuss concrete solutions in law and in practice for a more efficient implementation of guidelines and recommendations issued from relevant Council of Europe documents, better co-operation between international partner organisations, with a view to sharing good practices existing among Council of Europe's member States in order to effectively address the problem of misuse of administrative resources during electoral processes.

2. Participants and working languages

Participants will be the following ones:

- Members of the Parliamentary Assembly having chaired Assembly's election observation delegations in different countries or participated in election observation missions
- Members of the Congress of Local and Regional Authorities of the Council of Europe having chaired Congress election observation delegations in different countries or participated in election observation missions
- Members and experts of the Venice Commission having prepared reports on different aspects of misuse of administrative resources during electoral processes
- Representatives of the OSCE Parliamentary Assembly and the European Parliament
- Experts of the OSCE/ODIHR
- Members of electoral management bodies of countries where the PACE and Congress frequently observe elections
- Representatives of local NGOs with considerable experience in the observation of elections
- Experts and/or researchers working in the field of elections.

3. Background documents

- Parliamentary Assembly, Report on "Ensuring greater democracy in elections"⁵; Parliamentary Assembly's reports on observation of elections in countries under monitoring procedure or post-monitoring dialogue;
- United Nations, International Covenant on Civil and Political Rights (ICCPR), General Comment No. 25, Article 25.⁶
- Council of Europe, Committee of Ministers, Recommendation of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns.⁷
- Council of Europe, Committee of Ministers, Recommendation of the Committee of Ministers to member states on measures concerning media coverage of election campaigns.⁸
- Council of Europe, Committee of Ministers, Recommendation of the Committee of Ministers on protection of whistleblowers.⁹
- Venice Commission, Code of Good Practice in Electoral Matters.¹⁰

⁴ Paragraph 9 of the 2013 Report. Whilst the majority could influence election results by amending the electoral system before elections, such action cannot be considered as misuse of administrative resources. However, it has to be avoided as recommended by the Code of Good Practice in Electoral Matters (II.2.b).

⁵ Parliamentary Assembly Resolution 1897 (2012)

⁶ International Covenant on Civil and Political Rights (ICCPR), General Comment No. 25, Article 25 – Participation in Public Affairs and the Right to Vote, the Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service. Adopted at the Fifty-seventh Session of the Human Rights Committee, on 12 July 1996 (ref.: CCPR/C/21/Rev.1/Add.7, General Comment No. 25).

⁷ CM/Rec(2003)4, Recommendation adopted by the Committee of Ministers on 8 April 2003 at the 835th meeting of the Ministers' Deputies.

⁸ CM/Rec(2007)15, Recommendation adopted by the Committee of Ministers on 7 November 2007 at the 1010th meeting of the Ministers' Deputies.

⁹ CM/Rec(2014)7, Recommendation adopted by the Committee of Ministers on 30 April 2014 at the 1198th meeting of the Ministers' Deputies.

¹⁰ CDL-AD(2002)023rev.

- Venice Commission, Code of Good Practice in the Field of Political Parties.¹¹
- Venice Commission, Report on the misuse of administrative resources during electoral processes.¹²
- Venice Commission and OSCE/ODIHR, Joint Guidelines on preventing and responding to the misuse of administrative resources during electoral processes.¹³
- OSCE, Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and Venice Commission, Guidelines on Political Party Regulation.¹⁴
- Congress of Local and Regional Authorities, Report on “The misuse of administrative resources during electoral processes: the role of local and regional elected representatives and public officials”.¹⁵
- Congress of Local and Regional Authorities, Checklist for compliance with international standards and good practices preventing misuse of administrative resources during electoral processes at local and regional level.¹⁶
- Council of Europe, Group of States against Corruption (GRECO), Horizontal Review “Fighting Corruption – Political Funding”,¹⁷ as well as country evaluation reports especially those of the Third Evaluation Round.¹⁸

¹¹ CDL-AD(2009)021.

¹² CDL-AD(2013)033.

¹³ CDL-AD(2016)004.

¹⁴ Guidelines adopted by the Venice Commission at its 84th Plenary Session (Venice, 15-16 October 2010, CDL-AD(2010)024).

¹⁵ CG31(2016)07 final.

¹⁶ CG32(2017)12.

¹⁷ Council of Europe, Group of States against Corruption, Fighting Corruption – Political Funding, by Yves-Marie Doublet, Deputy Director at the National Assembly, France – Thematic Review of GRECO’s Third Evaluation Round.

¹⁸ The third round evaluation reports deal with the transparency and supervision of political financing. The reports of the Fourth Evaluation Round sometimes also contain some pertinent information as they deal *inter alia* with the prevention of corruption of parliamentarians.

4. DRAFT PROGRAMME

Thursday, 9 November 2017

09.00 – 10.00 WELCOME AND REGISTRATION OF PARTICIPANTS

10.00 – 10.30

OPENING SESSION

Welcoming interventions by:

- **Sir Roger GALE**, Head of the UK National Delegation to the Parliamentary Assembly of the Council of Europe (PACE), Vice-President of the PACE
- **Mr René ROUQUET**, Former Vice-President of the PACE
- **M. Xavier CADORET**, Vice-President of the Congress of Local and Regional Authorities of the Council of Europe
- **Mr Thomas MARKERT**, Secretary of the Venice Commission of the Council of Europe

10.30 – 12.30

INTRODUCTORY SESSION: INTERNATIONAL TEXTS AND PRACTICE AT STAKE

Moderated by: **Sir Roger GALE, Head of the UK delegation to the PACE**

Interventions by:

- **Mr Richard BARRETT**, Deputy Director General, Office of the Attorney General, Member of the Venice Commission (Ireland),
“The principles and existing documents; focusing on the Joint Guidelines on preventing and responding to the misuse of administrative resources during electoral processes”¹⁹
- **Mr Stewart DICKSON**, Thematic Spokesperson on the observation of local and regional elections, Member of the Chamber of Regions, Congress of Local and Regional Authorities of the Council of Europe (United-Kingdom),
“The Checklist for compliance with international standards and best practices preventing misuse of administrative resources during electoral processes at local and regional level”²⁰

Exchange of views with representatives of the Partnership for Good Governance countries²¹ (MPs, election administration representatives, NGOs) and members of the PACE observation missions in those countries

12.30 -14.00 *Lunch at the invitation of the Parliamentary Assembly*

¹⁹ CDL-AD(2016)004.

²⁰ Report CG32(2017)12, 20 March 2017.

²¹ Ukraine, Moldova, Georgia, Belarus, Azerbaijan, Armenia

14.00 – 17.00

FIRST SESSION: RECURRENT CASES OF MISUSE OF ADMINISTRATIVE RESOURCES DURING ELECTORAL PROCESSES: PRACTICAL ASPECTS

Moderated by: Mr Stephan SCHENNACH, Member of the Austrian National Delegation to the PACE, Former Chairperson of the Monitoring Committee of the PACE

Panel discussion:

- **Ms Josette DURRIEU**, Former Member of the National French Delegation to the PACE
- **Mr Peter WARDLE**, Election Expert of the Venice Commission, former Chief Officer of the Electoral Commission of the United-Kingdom
“Cases of good practice and malpractices regarding the use of administrative resources during electoral processes”
- **Mr Vladimir MISEV**, Election Adviser, OSCE/ODIHR

Exchange of views with representatives of the Eastern Partnership countries and members of the PACE observation missions in those countries

15.15 - 15.30 *Coffee-break*

- **Mr Xavier CADORET**, Vice-President of the Congress of Local and Regional Authorities of the Council of Europe
- **Ms Ana NATSVLISHVILI**, Chairperson of the Georgian Young Lawyers' Association (GYLA)

Exchange of views with representatives of the Partnership for Good Governance countries and members of the PACE observation missions in those countries

Friday, 10 November 2017

09.30 - 12.30

SECOND SESSION: LEGAL MECHANISMS FOR PREVENTING AND RESPONDING TO THE MISUSE OF ADMINISTRATIVE RESOURCES DURING ELECTORAL PROCESSES

Moderated by: Mr Jean-Charles GARDETTO, Former Member of the PACE (Monaco)

Panel discussion:

Panel discussion:

- **Mr Samuele DOMINIONI**, Research Fellow, FIW Comparative Research on Democracies, University of Bonn, Election Expert of the Venice Commission
“Preventing and responding to the misuse of administrative resources during electoral processes: legal solutions suggested by the Venice Commission”
- **Ms Gisela WURM**, Chairperson of the National Delegation of Austria to the PACE

Exchange of views with representatives of the Partnership for Good Governance countries and members of the PACE observation missions in those countries

11.00 - 11.15 Coffee break

- **Ms Tamar ZHVANIA**, Chairperson of the Central Electoral Committee (CEC) of Georgia
Presentation on the role of the Election management bodies and other relevant authorities dealing with misuse of administrative resources,
- **Mr Varuzhan HOKTANYAN**, Project Director, ‘Transparency International’, Armenia

Exchange of views with representatives of the Partnership for Good Governance countries and members of the PACE observation missions in those countries

12.30 -14.00 Lunch at the invitation of the Parliamentary Assembly

14.00 – 17.00

THIRD SESSION: FOLLOW-UP OF INTERNATIONAL AND NATIONAL ELECTION OBSERVERS' RECOMMENDATIONS

*Moderated and introduced by **Mr Philip DIMITROV**, Judge at the Constitutional Court of Bulgaria, former Head of Election Observation Missions, Member of the Venice Commission, Bulgaria*

How to reinforce the cooperation between different bodies of the Council of Europe, OSCE/ODIHR and other international and local partners in order to address this problem and follow up on the implementation of the recommendations?

Panel discussion:

- **Mr Jean-Claude MIGNON**, Former President of the PACE
- **Prof. Christina BINDER**, University of Vienna, Faculty of Law, Department for European, International and Comparative Law, Congress' expert on observation of local and regional elections

15.15 - 15.30 *Coffee-break*

- **Mr Vladimir MISEV**, Election Adviser, OSCE/ODIHR
- Interventions by representatives of Central Election Commissions

Exchange of views with representatives of the Partnership for Good Governance countries and members of the PACE observation missions in those countries

General conclusions of the Conference presented by **Mr Rasto KUŽEL**, General Rapporteur of the Conference, Executive Director at MEMO 98 (Slovak Republic)

Closing remarks by Mr Jean-Claude MIGNON, Former President of the PACE

4. Secretariat

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UK NATIONAL DELEGATION TO THE PACE

House of Commons

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