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Parliamentary Project Support Division

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JOINT PARLIAMENTARY SEMINAR ON “THE MISUSE OF ADMINISTRATIVE RESOURCES DURING ELECTORAL PROCESSES: A MAJOR CHALLENGE FOR DEMOCRATIC ELECTIONS”

Tirana

10-11 April 2018

*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*

*for
the Parliament of Albania and
the Parliament of Bosnia and Herzegovina*

PROGRAMME

Venue :

Rogner Hotel Tirana,
Bulevardi Dëshmorët e Kombit,
1001 Tirana,
ALBANIA

The event is open to the press. Please contact the PACE secretariat (contacts below) for further information

1. Background and Rationale

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, 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 PACE, 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. The Venice Commission adopted a report on the misuse of administrative resources during electoral processes in December 2013 and, based on this report, issued Guidelines jointly with the OSCE/ODIHR in 14 March 2016. 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 the 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. Nevertheless, despite all these efforts, the problem of misuse of administrative resources persists in its different forms and remains a 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*¹ 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”.²

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 election day.³ This broad definition

¹ Like some benefits from social programmes, including goods and in-kind resources.

² 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”.

³ 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).

covers the multifaceted ways in which administrative resources may be misused during the entire electoral process, not only the official electoral campaign period.

These issues were recently at the heart of discussions of a [regional conference hosted by the United Kingdom delegation to the PACE, in the framework of the Partnership for Good Governance on 9-10 November 2017](#). In the general conclusions of the conference, which are under preparation, members of the Assembly suggested that the PACE Committee on Political Affairs and Democracy prepare a draft report aiming for the adoption of a resolution and recommendation.

The proposed joint seminar for parliamentarians of Albania and Bosnia and Herzegovina, organised in cooperation with the Venice Commission and the Congress, aims to build on the London conference and further contribute to the work of the Council of Europe on reinforcing the legal mechanisms and international standards fighting against these recurrent problems. It will be an opportunity 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. The action is in line with PACE and Council of Europe recommendations on the administration of electoral processes, and the Action Plans for Albania and for Bosnia and Herzegovina 2015-2017. Both countries are member states of the Council of Europe and part of the ten member States subject to the PACE monitoring procedure, which involves on-going dialogue with the authorities, regular reports and occasional debates on a state's progress in honouring its obligations and commitments to the Council of Europe standards.

The seminar intends to encourage further co-operation between international partner organisations, with a view to sharing good practices existing among Council of Europe's member States and effectively address the problem of misuse of administrative resources during electoral processes.

The Republic of Albania is an official candidate for accession to the European Union (EU) since June 2014. The European Parliament resolution of 15 February 2017 on the 2016 Commission Report on Albania "welcomes the Commission's recommendation for opening accession negotiations with Albania (...) and calls for the accession negotiations to be opened as soon as there is credible and sustainable progress in (...) the fight against organised crime and corruption". Bosnia and Herzegovina has also been recognised a potential candidate to EU membership.

2. Participants and working languages

Participants will be the following:

- Members of the Parliament of Albania and members of the House of Representatives and the House of Peoples of Bosnia and Herzegovina;
- Members of the Assemblies of the two entities (Republika Srpska and Federation of Bosnia and Herzegovina) and Brčko District of Bosnia and Herzegovina;
- Members of the PACE 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 Mission to Albania and Bosnia and Herzegovina and the European Union Delegations to Albania and Bosnia and Herzegovina ;
- Representatives of Civil Society (local NGOs, development institutions, Experts and/or researchers, school of political studies), with considerable experience in the observation of elections;
- Media.

The working languages will be Albanian, Bosnian/Croatian/Serbian, English and French.

3. Programme

Tuesday, 10 April 2018

09.00 – 09.30 WELCOME AND REGISTRATION OF PARTICIPANTS

09.30 – 10.00

OPENING SESSION

Welcoming interventions by:

- **Mr Ervin BUSHATI**, Chairperson of the Albanian Delegation to the PACE
- **Mr Saša MAGAZINOVIĆ**, member of the Bosnia and Herzegovina Delegation to the PACE
- **Mr Erion VELIAJ**, Mayor of Tirana, Albania
- **Sir Roger GALE**, Vice-president of the PACE (United Kingdom), Chairperson of the Committee on the Honouring of Obligations and Commitments by member states of the Council of Europe (Monitoring Committee), Co-rapporteur on monitoring Bosnia and Herzegovina
- **Ms Vasilika HYSI**, Deputy Speaker of the Parliament of Albania, member of the Ad-hoc committee on the Electoral reform

10.00 – 10.10 Family photo

10.10 – 12.30

INTRODUCTORY SESSION: INTERNATIONAL TEXTS AND PRACTICE AT STAKE

Moderated by: Sir Roger GALE, Vice-president of the PACE (United Kingdom), Chairperson of the Committee on the Honouring of Obligations and Commitments by member states of the Council of Europe (Monitoring Committee), Co-rapporteur on monitoring Bosnia and Herzegovina

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”
- **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), Member of the Council for Democratic Elections
“The Checklist for compliance with international standards and best practices preventing misuse of administrative resources during electoral processes at local and regional level”

- **Mr Afrim KRASNIQI**, Executive director of Albanian Institute for Political Studies and Professor at the University of Tirana, *“Cases of good practice and malpractices regarding the use of administrative resources during electoral processes”*
- **Mr Oerd BYLYKBASHI**, Co-Chair of the Ad-Hoc Committee on Electoral Reform, Parliament of Albania
- **Ms Vasilika HYSI**, Deputy Speaker of the Parliament of Albania, member of the Ad-hoc committee on the Electoral reform
- **Mr Saša MAGAZINOVIĆ**, member of the Bosnia and Herzegovina Delegation to the PACE

Exchange of views with representatives of Albania and Bosnia and Herzegovina (MPs, election administration representatives, NGOs) and international experts

12.30 -14.00 Lunch hosted by the Parliamentary Assembly of the Council of Europe

14.00 – 17.30

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

Moderated by: **Mr Joseph O'REILLY**, Member of the PACE (Ireland), Co-rapporteur on monitoring Albania

Panel discussion:

- **Sir Roger GALE**, Vice-president of the PACE (United Kingdom), Chairperson of the Committee on the Honouring of Obligations and Commitments by member states of the Council of Europe (Monitoring Committee), Co-rapporteur on monitoring Bosnia and Herzegovina
- **Ms Josette DURRIEU**, Honorary member of the PACE (France)
- **Mr Klement ZGURI**, Chairman of the Central Election Commission of Albania
- **Mr Dario JOVANOVIĆ**, Project Director of the Coalition for Free and Fair Elections – *Pod lupom*, Bosnia and Herzegovina
“Cases of good practice and malpractices regarding the use of administrative resources during electoral processes”

Exchange of views with representatives of Albania and Bosnia and Herzegovina (MPs, election administration representatives, NGOs) and international experts

17.30 – 18.00 Press point

20:00 Dinner hosted by the Parliament of Albania

Wednesday, 11 April 2018

09.00– 09.15 WELCOME

09.15 – 12:00

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), Attorney at Law, Former President of the Bar Association

Panel discussion:

- **Ms Irena HADZIABDIC**, President of the Central Election Commission of Bosnia-Herzegovina
- **Mr Serhii KALCHENKO**, Associate Partner at Hillmont Partners Firm, PhD, 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 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 Dušan DRAKIC**, Head of Delegation for Montenegro in the Group of States against Corruption (GRECO), Head of section, Agency for the Prevention of Corruption in Montenegro
“The GRECO evaluation reports on Albania and Bosnia and Herzegovina and general GRECO recommendations on the misuse of administrative resources during elections”

Exchange of views with representatives of Albania and Bosnia and Herzegovina (MPs, election administration representatives, NGOs) and international experts

12.00 – 12.30

CONCLUDING SESSION

Moderated by: Sir Roger GALE, Vice-president of the PACE (United Kingdom), Chairperson of the Committee on the Honouring of Obligations and Commitments by member states of the Council of Europe (Monitoring Committee), Co-rapporteur on monitoring Bosnia and Herzegovina

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 Claus NEUKIRCH, Head of the Council of Europe’s Office in Albania

Ms Vasilika HYSI, Deputy Speaker of the Parliament of Albania, member of the Ad-hoc committee on the Electoral reform

Mr Ervin BUSHATI, Chairperson of the Albanian Delegation to the PACE

4. Background documents

Parliamentary Assembly of the Council of Europe

- [Resolution 1897 \(2012\) on Ensuring greater democracy in elections](#);
- [Recommendation 2105 \(2017\) on Promoting integrity in governance to tackle political corruption](#);
- [Resolution 2170 \(2017\) on Promoting integrity in governance to tackle political corruption](#);
- [PACE Information note \(14 August 2014\) by the co-rapporteurs on their fact-finding visit to Sarajevo and Travnik \(6 – 9 July 2014\) on the honouring of obligations and commitments by Bosnia and Herzegovina](#);
- [Resolution 2201 \(2018\) on the honouring of obligations and commitments by Bosnia and Herzegovina](#)
- [Resolution 2019 \(2014\) the honouring of obligations and commitments by Albania](#);
- [Press release, Albania elections: free campaigning, basic freedoms respected, but a politicised election administration reduced trust, 26 June 2017](#);
- [Parliamentary Assembly's reports on observation of elections in countries under monitoring procedure or post-monitoring dialogue](#);

Committee of Ministers of the Council of Europe

- [Recommendation \(2003\)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns](#);
- [Recommendation \(2007\)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns](#);
- [Recommendation \(2014\)7 of the Committee of Ministers on protection of whistleblowers](#);
- [GR-DEM\(2016\)14 Bosnia and Herzegovina: Compliance with obligations and commitments](#);
- [Council of Europe Action Plan for Bosnia and Herzegovina 2015-2017](#);
- [Council of Europe Programmatic Cooperation Document with Albania 2015-2017](#);

Venice Commission

- [CDL-AD\(2002\)023rev](#), Code of Good Practice in Electoral Matters;
- [CDL-AD\(2009\)021](#), Code of Good Practice in the Field of Political Parties;
- [CDL-AD\(2013\)033](#), Report on the misuse of administrative resources during electoral processes;
- [CDL-AD\(2010\)024](#), Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and Venice Commission, Guidelines on Political Party Regulation, Venice, 15-16 October 2010.
- [CDL-AD\(2016\)004](#), Venice Commission and OSCE/ODIHR, Joint Guidelines on preventing and responding to the misuse of administrative resources during electoral processes;

Congress of Local and Regional Authorities

- [CG31\(2016\)07 final, Report on "The misuse of administrative resources during electoral processes: the role of local and regional elected representatives and public officials"](#);
- [CG32\(2017\)12, 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](#);

Council of Europe, Group of States against Corruption (GRECO)

- [Horizontal Review “Fighting Corruption – Political Funding”, by Yves-Marie Doublet, Deputy Director at the National Assembly, France – Thematic Review of GRECO’s Third Evaluation Round;](#)
- Country evaluation reports for [Albania](#) and [Bosnia and Herzegovina](#), especially those of the Third Evaluation Round;⁴

European Union

- [EU report on Albania \(2016\);](#)
- [EU report on Bosnia and Herzegovina \(2016\);](#)

United Nations

- [United Nations, International Covenant on Civil and Political Rights \(ICCPR\), CCPR/C/21/Rev.1/Add.7 General Comment No. 25, Article 25, on 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, July 1996.](#)

⁴ 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.

5. Secretariat

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