Office for Democratic Institutions and Human Rights

# UKRAINE

## OSCE/ODIHR REVIEW OF THE LAW ON ELECTIONS OF PEOPLE'S DEPUTIES

**Warsaw**
**26 November 2001**

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# OSCE/ODIHR REVIEW OF THE LAW ON ELECTIONS OF PEOPLE'S DEPUTIES[1]

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## I. INTRODUCTION

This document provides an analysis of the Law on Elections of People's Deputies of Ukraine adopted by the Ukrainian Parliament (Verkhovna Rada) on 18 October 2001 and signed by President Kuchma on 30 October.

On 30 October, the President issued Decree No. 1022/2001 "On Securing Implementation of Citizens' Rights, Principles of Democratic Society, Openness and Transparency of the 2002 Election Process". The Decree contains a series of instructions to the central executive bodies and local state administrations. This Decree, when properly implemented, will increase the transparency of the elections. Though part of the legislation under which the elections will be conducted, this report does not review the presidential Decree.

The present analysis is based on an English-language translation whose accuracy has not been verified. Therefore, some of the comments in the report may flow from problems in the translation rather than the original text.

## II. SUMMARY OF CONCLUSIONS

The new Law marks substantial improvements compared to previous legislation and provides extensive safeguards to meet Ukraine's commitments on democratic elections as set out in the Copenhagen Document.[2] A number of OSCE/ODIHR recommendations such as equal and unimpeded access to the media, formation of election commissions, transparency measures and appeals/complaints procedures, were included in successive drafts.[3]

- The new Law makes effective provisions for multi-party representation in district (constituency) and precinct electoral commissions.[4]

- It makes numerous and effective provisions to promote openness in elections, including detailed rules on the use of party, candidate and international observers and strong rights of access to voting and counting procedures for such observers, including the right to observe voting with the mobile ballot box and clearly defined controls over such voting.

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[1] The review was prepared by Joseph Middleton, independent election consultant, barrister.

[2] Final Document of the CSCE Conference on the Human Dimension, Copenhagen, 29 June 1990.

[3] Final Reports on 1998 Parliamentary Elections, Warsaw, April 1998, and on the 1999 Presidential Election, Warsaw, 7 March 2000, amended version.

[4] The composition of the CEC is regulated in a separate Law, adopted on 17 December 1997.

- There are effective rules on the use of protocols of results, including a requirement that the date and time of their completion is marked on them and that a copy of the Precinct Election Commissions (PECs) is displayed without delay at the polling station. All of these measures, when implemented, will significantly enhance transparency in the conduct of parliamentary elections.

- Throughout the text the Law makes strong provision on equal opportunities for all election participants and equality of access to the media and other campaign facilities.

- Participants are afforded fairly clear and suitable rights of appeal to superior electoral commissions and/or a court. The risk of contradiction and conflict is reduced by a rule that the lodging of a court complaint suspends consideration of the same complaint in the higher electoral commission.

- The Law introduces an appropriate range of violations which, once the corresponding amendments have been made to the administrative code, will envoke administrative penalties.[5]

The new Law goes into much greater detail than its antecedent. With such a mass of detail, a great deal of work will be needed to familiarise election administrators, public officials, judges and other professionals with the new rules. Doubtless, a large part of this task will fall to the Central Electoral Commission (CEC). The need for the CEC to adopt regulations supplementing the legislation should obviously be much reduced. This will allow the CEC to focus on its many other tasks. However, the CEC will need to adopt some regulations to fill in remaining gaps in the legislation and address practical matters not otherwise covered in the Law. The high level of detail in the Law should reduce the risk of substantial new regulations being adopted during the pre-election period. All voters and election participants have relatively easy access to the rules governing the election.

While the considerable strengths of this Law are summarised above, this report focuses more on potential defects or problematic areas in the text and points which might well benefit from clarification through regulations or re-examination.

- In accordance with Paragraph 8 of the Copenhagen Document, the Law should include a role for non-partisan domestic observers.

- The Law would benefit from more explicit prohibitions of interference in the work of electoral commissions, for instance by excluding from polling stations and from the District Election Commissions (DECs) any persons who are not expressly permitted to be there according to the Law.

- Protocols issued by the DECs and the CEC must include a summary table showing the results from all the PECs (in the case of a DEC) and DECs (in the

[5] A new Criminal Code entered into force in September 2001.

case of the CEC) in order to allow the possibility of cross-checking the results from the commission below and to ensure that the results from the lower commission have been accurately taken into account.

- International observers should have the right to receive certified protocols of all results at the DEC, including those for the multi-mandate constituency. They already have the right to receive a certified copy of the protocols at the precinct level.

- It would be desirable if preliminary results of the elections were published without delay.

- There should be a clear rule permitting the resubmission of registration documents which allows for the correction of errors.

- If genuinely necessary, "random" checks on the finances of candidates and parties should be minimal and rigorously protected against selective abuse.

- There should be a clear distinction when imposing impartiality requirements between public/State mass media and private mass media.

## III. GENERAL PRINCIPLES

The new Law regulates all areas of the preparation, organisation, and conduct of elections for the national Parliament (Verkhovna Rada) of Ukraine. The essential features of the Verkhovna Rada are set out in the Constitution: it is a unicameral Parliament of 450 members elected for a four-year term. They are elected on the basis of universal, equal and direct suffrage by secret ballot. The Constitution does not specify the electoral system. This is set out in the new Law and has not changed: 225 members are elected from 225 single-mandate constituencies by majority voting; the other 225 are elected from a single national constituency from party or party bloc lists on the basis of proportional representation.

Article 10.2 establishes a series of important principles on the conduct of elections, including legality, political pluralism, transparency and openness, equality between parties and candidates, equal access to the media and impartiality on the part of state bodies and officials. These are all principles which fully accord with the commitments contained in the Copenhagen Document.

However, Article 10.2.7 extends the requirement of impartiality as between parties and candidates to the directors of enterprises, establishments and organisations. Unless they are State-owned, it is difficult to see why such bodies should be subject to any obligation to show impartiality towards political causes or campaigns. An environmental NGO, for instance, can hardly be expected to show impartiality towards all political actors. Unless the word "State" was omitted from the translation, it would be preferable to omit these words from Article 10.2.7.

## IV. ELECTIONS DISTRICTS (CONSTITUENCIES) AND PRECINCTS

In effect the Law envisages that election districts or constituencies must be reformed every four years (Article 16.3). Defining constituency boundaries is a delicate, often difficult and time-consuming process. There is no reason that it should need to be done every four years.

The number of voters within a constituency is permitted to vary by 10% from an established norm. This appears to be a sensible limit.

Article 17.4 allows the formation of precincts on the territory of military units in exceptional cases. In so far as possible, military personnel should vote in the ordinary way in civilian polling stations subject to the usual controls and supervision. The exceptional circumstances in which precincts may be formed in military units (in particular, where the unit is far-removed from centres of civilian population) should therefore be clearly defined.

The same need to define exceptional circumstances applies to Article 17.7 (formation of precincts up to five days prior to polling day).

The number of voters within a precinct is permitted to range from 20 to 3,000. This is an exceptionally broad range. A maximum number of one or two thousand voters would avoid problems of overcrowding in polling stations.

## V. ELECTION ADMINISTRATION AND THE ELECTORAL COMMISSIONS

Electoral commissions operate at three levels: the Central Electoral Commission (CEC), a total of 225 district (constituency) electoral commissions (DECs) and the precinct electoral commissions (PECs).[6]

This hierarchy of electoral commissions probably places enormous strain on the DECs and the CEC. At both levels the commissions are required to process vast numbers of results from hundreds of inferior commissions. Another intermediate level electoral commissions could be introduced between the CEC and the DECs and/or between the DECs and the PECs. The OSCE/ODIHR report suggested on the last parliamentary elections a lack of consistency and co-ordination between electoral commissions. This problem might be addressed by the formal introduction of interim electoral commissions.

The rules on the formation of the CEC and most of its powers and duties are set out in a separate Law on the CEC which is not the subject of the present review. Under the finalised draft of the Law on Elections of People's Deputies, the right to representation in the DECs is open to those parties which presently have fractions within Parliament and those that overcame the 4% threshold in the last parliamentary elections. Other

[6] There were 32,500 polling stations during the previous parliamentary elections.

parties may have the opportunity to be represented in DECs, but due to the ceiling of 20 members, their representatives will be designated on the basis of a lottery. This provision addresses effectively the key need for pluralism and substantial multi-party participation in the organisation and conduct of elections. This is one of the most important safeguards for openness and transparency in the election process.

Other measures to promote pluralism are included in the rules on the formation of PECs. However, the provisions in Article 21.8, under which parties and candidates in single-mandate constituencies are entitled to a "proportional share of leadership positions" in PECs may prove to be over-ambitious: it is far from clear how this will be made to work in practice.

Although Article 10 speaks of the "prohibition of illegitimate interference in the electoral process" and Article 20.6 prohibits officials and civil servants from serving on DECs, the new Law could have contained stronger prohibitions, such as an express exclusion of officials from the voting and counting process except to cast their own votes.

The powers of the lower electoral commissions expire ten days after the official publication of the election results. This rule may create problems if there are any judicial or other appeals outstanding at that stage in which the commission's participation is required.

The Law includes welcome provisions on taking minutes at all sessions of electoral commissions (Article 25.11). However, copies of such minutes should be distributed to all members or attendees at the session and approved at the beginning of the following session.

Under Article 27.1, the powers of a DEC or PEC may be terminated if a court decides that it violated the Constitution, the present Law or other laws. This is by no means an appropriate response to such a finding and may open the door to abuses. The mere fact that an electoral commission acts on the basis of a particular interpretation of the law, perhaps on a point which lacks clarity, and that a court later takes a different view of the law, does not mean that the commission must be abolished. Like any other institution, an electoral commission must have the scope to make mistakes. The powers of an electoral commission should only be terminated in these cases if the violations are serious, deliberate and/or repeated. This will require a careful assessment by the superior electoral commission.

Similarly, the powers of an individual member of a DEC or PEC should only be terminated if a violation of the election legislation has been established by a court and is deemed by the court and/or the superior electoral commission to be serious, deliberate and/or repeated (Article 27.3.9).

## VI. OPENESS AND TRANSPARENCY

The Law, supplemented by the Presidential Decree No. 1022/2001, increases transparency of the election process. The Law makes detailed and important provisions to ensure that party and representatives of candidate, of the mass media and international observers have full access to the organisation and conduct of the elections and the processing of the election results. This includes the right to observe and a limited right to participate in sessions of the electoral commissions and the right to observe voting (at the polling station and in the use of mobile ballot boxes) and the processing of the results.

The right to receive certified copies of the protocols of results is a key feature of securing transparency. This right should be clearly extended to all official observers, including international observers, at both the PEC and the DEC.

Protocols issued by the DECs and the CEC must include a summary table showing the results from all the PECs (in the case of a DEC) and DECs (in the case of the CEC) in order to allow the possibility of cross-checking the results from the commission below and to ensure that the results from the lower commission have been accurately taken into account.

It is regrettable that, despite a proposal by the President, the Law does not provide for non-partisan domestic observers that should enjoy rights and obligations equal to those of other observers. This provision was blocked in Parliament by the oppostion.

An electoral commission may exclude a candidate or observer if they "interfere" with its session (Article 25.10). "Obstruction" would be a more appropriate condition for exclusion than "interference".

All official observers are expressly given the right to take photographs and make film and audio recordings (Articles 60.6.2 and 61.5.4). This is an unusual and surprising rule. Filming voters as they go to the polling booth and ballot box could have an intimidating effect and may diminish the secrecy of the vote.

## VII. SUFFRAGE AND VOTER LISTS

The provisions in Chapter I seem not to confirm the active voting rights enjoyed by persons convicted of an offence. Provisions, later in the Law, on campaign meetings inside penal institutions suggest that persons held in detention are entitled to vote. The Law should leave no doubt as to whether persons in criminal detention, whether before or after conviction, are entitled to vote.

Chapter V sets out a comprehensive and effective set of rules on the compilation and maintenance of voter lists. Article 31.1 provides that voter lists should be available on the premises of the PEC so that voters can easily check their entry. However, premises of a PEC may not always be available or staffed. For instance, they may be

accommodated within a school which is only open for a few hours each day and which does not have the facilities or personnel to show voter lists to visitors. It might therefore be preferable to require that voter lists are displayed in a prominent and publicly accessible place within the precinct.

Article 31 deals with the issuance of absentee ballots. These may be requested 25 days or less before the election. For the avoidance of any doubt, a final date for making such requests should be included in the Law.

## VIII. NOMINATION AND REGISTRATION OF CANDIDATES AND PARTIES

The reduction of the overall election period to 90 days made the requirement of signatures unrealisable. The complete removal of signature collections, for which the previous timetable allowed some 50 days, and its replacement by a system of monetary deposits (see below), should help to ensure that all necessary steps can be taken to organise the elections and conduct effective campaigns without undue haste. The deposit system will avoid the very many practical problems of regulating and verifying in a fair manner the collection of signatures in support of a candidate or party.

In general, the amount of the deposit must strike a balance between being high enough to discourage excessive or frivolous candidate registrations, which would place an onerous burden on the administration of the election, but low enough to ensure that participation in the electoral process is not the preserve of the rich.

Under Article 43, the election deposits are set at 60 times the minimum monthly wage (before tax), presently UAH 1,020 (roughly $200) for a candidate in a single-mandate constituency and 15,000 times the minimum monthly wage (UAH 255,000, or roughly $48,000) for each party or party bloc list in the national multi-mandate constituency. The amount for candidates in the single-mandate constituencies seems reasonable and it will be interesting to see whether next year's elections produce very large numbers of candidates in those constituencies. On the other hand, the amount for parties and party blocs is substantial and may lead to a relatively small number of parties participating in the 2002 elections.

The September draft stipulated that political parties that had not been registered for at least a year prior to polling day would not be permitted to participate in the election. This long and stringent restriction imposes substantial limits on party political activity with no obvious benefits or justification. A presidential proposal to remove this restriction is not reflected in the new Law.

Article 40.6 sets out specific requirements on the procedures to be adopted by political parties when they adopt their election candidates. These should be deleted in their entirety since procedures, adopted by a political party, are an internal matter to be regulated and enforced by that party. If this or any other Law seeks to regulate how a party conducts its own proceedings, this could give rise to a whole range of objections and appeals in an attempt to undermine that party. It might be said that there were only

199 delegates, or that some of the delegates were not present for the whole meeting, or any number of more or less substantial objections. Provided that an authorised official of the party has presented that party's nominations and that the nominees meet the various requirements set out in the Law, those who organise the elections should not seek to go behind those nominations.

In Article 41.10 and elsewhere in the Law, candidates seeking registration are required to submit a property and income statement not only for themselves but also for their family members. The proximity of family members covered by this rule is not identified and should be clearly defined in the Law.

Articles 41.2 and 42.3 prohibit the resubmission of registration documents. These rules should not prevent the resubmission of registration documents merely in order to correct minor errors that may have been made in the documents which were originally submitted.

Article 45.3 still refers to signature lists. This may be an error in the translation.

The word "repeatedly" does not appear in Article 49.1.12 but does appear in the parallel provisions contained in Article 49.3.14. This too is presumably a translation error.

## IX. ELECTION FINANCES

Article 22.2.5 of the Law empowers the CEC to seize the funds of DECs which have failed to comply with budget regulations. Limitations of this power to breaches, which are intentional and serious and/or persistent, may be appropriate. In any event, the exercise of such a power must trigger immediate steps to secure the continuing preparation of the election within that constituency, probably including the appointment of new DEC members.

Article 22.2.8 permits the CEC to conduct random audits of party campaign accounts. This power is susceptible to abuse given that the conduct of such audits would inevitably place the party in question under pressure. Given that accounts are subject to checks after the election, such a power may not be justified. If it is used, there must be a very transparent and truly random procedure for selecting the party to be audited. The same comments and concerns apply to the provisions in Article 36.11 on sample checks of election funds by the CEC and those in Article 44.2, which allow the CEC to ask the State Tax Administration to verify the personal financial statements submitted by a potential candidate and his or her family.

According to Article 34.4, all payments out of a campaign account must be made by bank transfers. While this may generally promote accountability, a provision allowing some legitimate spending requirements to be paid by cash would be appropriate. A maximum amount could be stipulated. To a considerable extent, any concerns about improper use of such funds are addressed by the obligation to submit to the CEC a financial statement on income and disbursements from the campaign fund (Article 35.4). Similarly, the termination of all disbursements from the campaign funds on the

eve of the election (Article 34.8) may be excessively cautious and raise practical difficulties: some service providers may not submit their invoices until perhaps a day or two after the election. There is no reason that they should not be paid provided, again, that a sensible and enforced regime of financial supervision is in place.

The Law should clarify whether the financial statements produced by parties and candidates are confidential, whether other election participants are entitled to see them or whether the statements can or must be published by the CEC.

Article 36.1 seems to imply that organisations, as opposed to individuals, may not make voluntary donations to a campaign fund. But if this is the case, there must surely be a corresponding ban on donations by organisations to the "financial resources of the party". This provision may benefit from clarification on this point.

Under Article 36.5, self-employed individuals with outstanding tax liabilities are prohibited from making donations to campaign funds. Article 36.10 requires the election fund manager to reject donations made by such persons. How would election fund managers know whether a potential donor had outstanding tax liabilities? Are they expected to demand up-to-date and audited tax records from anyone who wants to give money to the party? In any event, there is no justification for requiring the fund manager to hand the donation over to the State budget rather than returning it to the donor. These rules might benefit from re-examination.

## X. THE CAMPAIGN

The DECs are required to assist in conducting and in certain instances to organise meetings of candidates with their voters at enterprises, institutions and organisations of all forms of ownership (Article 23.2.12). Organising campaign events is not generally and should not fall within the duties of election administrators. By all means they should make sure that public institutions that make their facilities available for campaign events do so on an equal basis for all parties. But once the electoral commissions start to involve themselves in organising campaign meetings, the possibilities for unequal treatment may blossom. This is a task far better suited to the parties and candidates themselves.

As in many countries, campaigning during the day before the election is prohibited (Article 50.2).

Local government bodies are required to provide premises for campaign events. If this is to be done free of charge the Law should make this clear.

## XI. THE MASS MEDIA

Article 12.4 of the Law requires the mass media to provide impartial coverage of the election campaign. While this is obviously an important rule, some qualification may be required in relation to privately owned mass media.

Article 56.5 presents a very unusual rule. Where information published by the mass media is deemed by a party or candidate to be incorrect, the party or candidate has the right to publish or broadcast a rebuttal of that information in the same medium free of charge. The Law does not suggest that this right is limited to rebuttals of information about that particular party or candidate. This rule is far too broadly defined and its justification is far from evident. The rule is emphatically not merely a provision on defamation, defined elsewhere in Ukrainian law, that should apply equally to all election procedures and campaign statements. This rule goes very much further. All it takes is for a party or candidate to "deem" that an assertion is incorrect. The assertion in question might be that Party X holds the best future for Ukraine. One might easily imagine an endless and pointless sequence of rebuttals, counter-rebuttals, and counter-counter-rebuttals. This is hardly likely to engage the voters' interest or serve any other useful purpose. This provision should be narrowly and precisely defined.

The 15-day pre-election ban on publishing opinion polls is unusually long (Article 56.14). Again, it is not obvious that this rule serves a useful purpose, other than favouring parties and candidates who have the financial resources to commission opinion polls

## XII. BALLOT PAPERS AND PROCEDURES FOR VOTING AND COUNTING

The new Law provides detailed rules on the format, content, preparation and storage of ballot papers and on the procedures for voting and the processing of ballot papers. It also treats ballot papers as sensitive material and establishes safeguards to guarantee its protection. This should reduce the risk of uncertainty and inconsistencies in the conduct of the election. At the same time the volume of new details in the election rules will necessitate a significant amount of educational activities for the benefit of voters, members of electoral commissions, judges and others. The Presidential Decree No. 1022/2001 addresses this issue by creating centres that will provide information on the election process to all election subjects and by insisting on the need for voter education.

The responsibilities of the PECs include making changes to the printed ballot papers (Article 24.2.6), presumably to reflect the withdrawal of a candidate or party from the election after the ballot papers have been printed. However, any marks of any kind whatsoever should not be made on ballot papers. First, such a rule raises the danger of accidental or deliberate crossing out of the wrong name or candidate. Second, manual markings will never be entirely uniform and their use may help to identify ballot papers and compromise the secrecy of the ballot. Instead, in case of withdrawals from the election, the electoral commissions should publicise that fact by written and other announcements across the constituency and inside the polling stations.

For the same reason, the system of control checks as described in Articles 62.7 and 66.7 should be removed and replaced by counterfoils printed with a unique and sequential number. The control check is a counterfoil from which the ballot paper itself is detached. The Law provides that just before the ballot paper is issued, the voter's number on the voter list, his or her signature and the signature of the member of the PEC who issues the ballot paper must all be put on the control check.

According to Article 62, voters continue to enjoy the right to cast a negative vote, against all the candidates or parties. While this has been a common feature of ballot papers in a number of former Soviet countries, its justification in a modern election is questionable. The symbolic desirability of having this feature on a ballot paper was obvious in the days when there was only one candidate running in the election. Although pointless in reality, it gave the impression that voters had some sort of meaningful choice when they entered the polling booth. The usefulness of such an arrangement in Ukraine today, when numerous candidates and parties with different platforms compete in parliamentary and other elections, is far from clear. And although there is no express international democratic standard on this issue, as a matter of principle voters should be encouraged to vote *for* their preferred candidate or party, and thereby take responsibility for the body which is being elected.

The Law does not contain turnout requirements by which a certain proportion of the electorate must participate in an election in order for the election to be valid in a particular constituency. Nor is there any requirement that a certain proportion of those who do vote must vote positively, for a particular candidate or list, in order for the election to be valid. In other words, allowing voting "against all candidates" would make more sense if there were a rule saying that an election has to be repeated if the number of such votes reaches a certain level or if there were a particular turnout requirement.

Article 65.1 should stipulate that polling booths should be equipped with pens, not pencils.

Article 66 should provide that voters may stay in the premises *only* for the time needed to vote. In addition, a categorical prohibition on the presence of all persons not explicitly permitted in the Law to be present at voting or counting of the votes could be included in this Article. Finally on this point, the Law should clarify that the police or law and order agents may enter a polling station only to cast their votes or at the express invitation of the chairman of the PEC or a member of the commission acting on his or her behalf in order to restore public order, and must leave the premises of the polling station as soon as order is restored.

Members of the PEC who go out with the mobile ballot box should be required to take a small specified number of spare ballot papers in case a voter spoils his or her ballot paper and needs a replacement (Article 67.6).

The right to inspect any object which appears not to be a genuine ballot should be extended to official observers (Article 68.22).

The results protocols should indicate how many voters have voted using the mobile ballot box (Article 69.2). This would help to reveal instances of unusually high use of the mobile ballot box where election commissions might be expected to provide an explanation.

The right to attend repeat tabulation of votes at the polling station should be extended to international observers (Article 72.9).

It is essential that all official observers, including international observers, are given the right to receive certified copies of all the results protocols produced by the DEC. This right is presently limited to protocols on the single-mandate election (Articles 73-74).

It may be worth clarifying that the criteria by which the CEC may declare elections in a single-mandate constituency, as set out in Article 77.1, are exhaustive. This would also provide clarification to the courts that they can only invalidate such an election on the grounds specified therein (see Article 77.5).

Article 78.1 requires the publication of the election results no later than five days after they are determined. This is a welcome measure but preliminary results of elections should be published without delay.

Article 81 provides rules to deal with the situation where a deputy elected from a party list resigns or loses office before the end of his or her term. The general rule is that the next person on the list takes his or her place. However, Article 81.3 allows the party to exclude the next person on the list so that the following person on the list takes the seat. It is not clear why this is permitted. The rule would be understandable if the potential replacement no longer met the requirements of a candidate for people's deputy or he or she had resigned from the party. But otherwise, by their vote the voters have chosen a particular body of party candidates presented in a particular order. That choice should be respected and the next person on the list should take the seat.

## XIII. APPEALS, COMPLAINTS AND VIOLATIONS

All actions, decisions and omissions of electoral commissions may be appealed to the superior electoral commission or to a court. For the avoidance of confusion and contradictions, the Law provides that an appeal to a higher commission shall be suspended if the same matter is appealed to a court (Article 29.12).

This mechanism of appeals is highly desirable in relation to acts and omissions of electoral commissions. However, Article 29.2 goes much further: it envisages appeals by voters, parties, electoral commissions and others to a court against the actions or omissions of enterprises, institutions and organisations (apparently whether private or public), their officers and officials, and even associations of citizens. This paragraph should be clarified or possibly simply deleted. This part of the Law appears to be addressing public law remedies. Administrative violations and criminal offences are addressed elsewhere. Public law remedies should lie only against public law entities,

not private individuals. Even if this paragraph were limited to public bodies, it presumably adds little if anything to the existing legal order. At the very least the provisions it contains should be clearly stated to apply only to State and local government bodies.

The provisions on deadlines within which complaints must be brought (Article 29.6) are not entirely clear and might benefit from reconsideration. Alleged violations occurring before polling day must be lodged by 24:00 on the day before the elections (presumably meaning the very end of the day before the election). Clearly this is inadequate: lodging an appeal takes time. It may be practically impossible to lodge an appeal against something that happens on the night before the election within minutes or even hours of the event occurring, particularly if the violation is not discovered or communicated immediately. The deadlines presently envisaged create an obvious risk of injustice.

Article 29.8 provides that complaints lodged on the day of or after the election should be considered without delay. This should be extended to those lodged on the day before the election. The obligation should be not only to determine the appeal but to communicate the decision on the appeal without delay.

Article 85 sets out a range of actions which will entail criminal, administrative or other responsibility. As usual, the details of the actual criminal offences and administrative violations and the penalties attaching to them is left to the respective codes. Obviously, corresponding amendments to the Code on Administrative Violations and the new Criminal Code (which entered into force on 1 September 2001) will be needed to give effect to these provisions.