

# Compendium of International Standards for Elections



Second Edition



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## Preface

Elections are examples of human rights in practice. Achieving a democratic electoral process is part of establishing a system of government that can ensure respect for human rights, the rule of law and the development of democratic institutions. In this respect, international standards for elections, established by universal and regional treaties and political commitments, provide a basis for the assessment of an election process. Such standards include political rights and fundamental freedoms as outlined in the Universal Declaration of Human Rights.

The European Union has a long tradition of supporting human rights, democracy and the rule of law throughout the world, and these principles are enshrined in the basic EU treaties as fundamental values. In this context, the deployment of EU Election Observation Missions constitutes an important EU foreign policy and external assistance instrument.

This compendium aims to assist EU Election Observation Missions and other interested stakeholders in clearly identifying the international standards to use in assessing the conduct of elections. To facilitate such assessment, a practical guide has been included as an annex. It is the Commission's expectation that EU Election Observation Missions will make use of this new tool to assess the conduct of elections in line with international standards and ensure coherence among EU Election Observation Missions.

European Commission, November 2007



# 1. Introduction

International standards for elections stem from political rights and fundamental freedoms established by universal and regional treaties and political commitments. These provide a basis for the assessment of election processes by both international and domestic election observers.

The principal universal legal instruments are the Universal Declaration of Human Rights (UDHR), much of which has the force of international customary law, and the International Covenant on Civil and Political Rights (ICCPR), which has been signed and ratified by over 160 States and is legally binding on all ratifying countries. In addition to having legal force, these instruments have strong political and moral force. Other universal treaties also provide standards for the conduct of elections. These include the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPWD).

Regional instruments, agreed to by states within a geographic region or as members of an international organisation, include both treaties and political commitments. The organisations that have agreed such instruments include the African Union (AU), the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), the Organization of American States (OAS), the Council of Europe (CoE), the Organization for Security and Co-operation in Europe (OSCE), the Commonwealth of Independent States (CIS), the League of Arab States (LAS), the Organization of the Islamic Conference (OIC) and the Commonwealth.

This compendium, which has been revised and updated since it was first published in 2005, outlines the obligations and commitments made by each state. It lists the signatories of all key international and regional instruments and includes relevant text and commentary. The compendium has been developed for use by election observers, as well as election administrators and others responsible for, and interested in, the conduct of elections. It will therefore be of interest to state authorities,

political parties, the media, civil society organisations, international organisations, diplomats and academics.

Since the year 2000, the European Union has been committed to undertaking comprehensive, long-term observation through the deployment of Election Observation Missions (EOMs), which are independent in their findings and conclusions. During this time, understanding and use of international standards has grown. Furthermore, standards for the conduct of international election observation have been established through the Declaration of Principles for International Election Observation, commemorated at the United Nations in October 2005. Both the European Commission and the European Parliament have endorsed the Declaration. With the publication of the second edition of the Handbook for EU Election Observation, based on the use of international standards, it is hoped that reference to such standards will intensify in the assessment and reporting of EU EOMs, as well as in the work of other international and domestic observers and election stakeholders.

As there will be on-going developments in international law and politics, the reader is advised to check for any change since 1 May 2007. For a comprehensive guide as to what amounts to best practice for elections, which should also be considered by international and domestic observers, readers are advised to refer to the ACE Electoral Knowledge Network ([www.aceproject.org](http://www.aceproject.org)).

For elections to be credible, international standards need to be understood by election stakeholders and met in practice. For observation to be effective, international standards should be the basis of methodology and analysis. This compendium is intended to assist in the consistent and constructive implementation of election observation, which can thus promote improvements in the conduct of elections.

## Abbreviations

ACHPR	African Charter on Human and Peoples' Rights
ACHPR-PW	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
ACP	African, Caribbean and Pacific States
Afr.Comm.HPR	African Commission on Human and Peoples' Rights
AmCHR	American Convention on Human Rights
AmCPRW	Inter-American Convention on the Granting of Political Rights to Women
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CIS	Commonwealth of Independent States
CoE	Council of Europe
Comm.	Communication
CPFPL	Convention on the Participation of Foreigners in Public Life at Local Level
CRPD	Convention on the Rights of Persons with Disabilities
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)
ECHR-P1	First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms
ECLSG	European Charter of Local Self-Government
ECommHR	European Commission of Human Rights
ECOWAS	Economic Community of West African States
ECtHR	European Court of Human Rights
EOM	Election Observation Mission
EU	European Union
FCPNM	Framework Convention for the Protection of National Minorities
HRC	Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
IPU	Inter-Parliamentary Union
LAS	League of Arab States
MWC	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
NEEDS	Network of Europeans for Electoral and Democracy Support
NEPAD	New Partnership for Africa's Development
OAS	Organization of American States
OAU	Organisation of African Unity
OIC	Organization of the Islamic Conference
OSCE	Organization for Security and Cooperation in Europe
SADC	Southern African Development Community
UDHR	Universal Declaration on Human Rights
UN	United Nations

## 2. International Human Rights Norms and the Right to Participation

### 2.1 Introduction

Before World War II, no comprehensive set of human rights existed at the international level. Rules concerning participation were confined to the sphere of national legislation and were in many cases provided for in a general manner in the constitutions of the countries existing at that time.

Following World War II, the conviction that such rights should be granted in a binding form at international rather than national level began to take hold. The Charter of the United Nations (UN) adopted in 1945 mentioned the concept of human rights in a number of articles, but the content of human rights was not spelled out in that context. Instead, the UN charged a committee with the task of formulating these human rights for later adoption of a Bill of Human Rights. This work led to the adoption of the Universal Declaration of Human Rights (hereinafter: the Universal Declaration) by the United Nations General Assembly in December 1948, an adoption that took place just before the so-called Cold War broke out. It is important to remember that the Universal Declaration, formally speaking, is not a treaty about human rights but a non-binding resolution only. However, it contains at least a number of norms which have the status of customary international law. In addition, the Universal Declaration expresses a strong moral standard.

The adoption of the Universal Declaration marked the beginning of the development of participation as a human right. Participation – directly or through freely chosen representatives – is the norm to which a number of other substantive human rights are connected. Democracy, however, is not prescribed in the Universal Declaration, nor is it defined. As a matter of fact, democracy is usually not mentioned as a term connected to participation in human rights documents.

### Article 21 of the Universal Declaration of Human Rights (UDHR) (1948)

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

In the Universal Declaration, the right to participation is included in Article 21. Whilst the article does not make any distinction between individuals on the basis of, for instance, citizenship, the norm obviously presumes an organic link of some sort to a particular country, either on the basis of residence or citizenship.

The article is mainly concerned with the level of central government, rather than regional or local government. While the exact body in which everyone is entitled to participate is not specified, it could be the parliament or even the executive in cases where the executive is elected. However, it is clear that the judiciary is outside the scope of Article 21, because of the reference to government.

Participation in the government of a country should, according to Article 21, be either direct or through freely chosen representatives. It is easy to make a *prima facie* conclusion that such participation is determined either through a referendum or an election.

In Article 21(3), it is said that the will of the people shall be the basis of the authority of government. Hence the exercise of public power is to be legitimised by the people. However, the sentence does not say very much about how the legitimacy of government is to be created. The minimum level of participation in government is defined after the semi-colon, where an explanation is given of how the will of the people shall be expressed, with reference to a series of election elements.

The first requirement in Article 21(3) is that elections must indeed be held; otherwise the government does not ground its authority in the will of the people. The other elements are periodic elections, genuine elections, universal suffrage, equal suffrage, and secrecy of the vote.

The requirement for *periodic elections* implies that a country's legislation should prescribe a certain period after which elections must take place. Nothing is said about the length of the period, although it should probably not be unduly long, but limited to a maximum of 5–6 years. This element also contains the implicit

need for a responsive and independent election administration or other such structure to ensure the timely holding of the election.

The element of *genuine elections* may be understood at two levels. At the ‘higher’ or broader level, the adjective genuine can be seen to bring in the so-called adjacent political freedoms and rights, such as the freedom of expression, assembly, association, and movement. At the ‘lower’ or narrower level, the element of a genuine election should include a real choice for voters between political contestants.

*Universal suffrage* defines the electorate. This element concerns who, among the “everyone”, that should have the right to participate in elections, with a premise that it should be defined in terms as inclusive as possible. It is implicitly understood that a relationship of some sort between the individual and the country in question can be required, in addition to the usual requirement for a minimum age.

The reference to *equal suffrage* is related to equality among the electorate in the actual voting. At the outset, equal suffrage translates into the maxim “one person, one vote”. That is to say, voters should have an equal number of votes at their disposal when carrying out the act of voting. Also, each vote should count more or less the same, with implications for the delineation of electoral district boundaries. Gerrymandering, that is, opportune changing of electoral boundaries in bad faith, is inadmissible under the principle of equal suffrage.

The element of a *secret vote* is quite clear, at least in principle. It holds that the voter should cast his or her vote in secret. Nobody else should be able to see how the voter votes, guaranteeing that the person is actually in a position to vote according to his or her own conviction, free from influence and coercion from anybody else during the act of voting. The secrecy of the vote should also imply that it is impossible to attribute a vote, marked in the secrecy of the polling booth, to any particular voter. Rather, the ballot paper, when marked and dropped into the ballot box, must be completely anonymous in relation to the voter who marked it.

There may of course be special procedures for persons unable to mark the ballot paper themselves, such as illiterate or physically impaired voters. As far as possible, the secrecy of the vote should be respected for these persons as well. This is partly provided for in the qualification of secrecy of the vote, which provides for “equivalent free voting procedures”.

The various electoral elements found in Article 21(3) of the Universal Declaration provide an operational dimension to the right to participation that is relevant as a starting point for election observation.

## 2.2 The Global Norm of Participation

The plan to create a global Bill of Human Rights came to its completion in 1966 with the adoption of the two UN Covenants, the one on Civil and Political Rights (hereinafter: the ICCPR) and the other on Economic, Social and Cultural Rights. In relation to the Charter of the United Nations and the Universal Declaration of Human Rights, the two UN Covenants implement the Universal Declaration by creating a binding set of human rights norms at the level of international law.

### Article 25 of the International Covenant on Civil and Political Rights (ICCPR) (1966)

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

Although Article 25 of the ICCPR is about participation, it does not mention the word democracy. In fact, it deserves to be repeated that very few human rights documents do, and when so, mainly in the preamble of the convention. However, Article 25 does introduce a number of human rights aspects into the electoral process, and identifies elections as a central component of participation while defining a number of election-related elements as a minimum level of participation.

In General Comment 25 by the UN Human Rights Committee (hereinafter: HRC)<sup>1</sup> concerning Article 25 of the ICCPR, it is stated that whatever form of constitution or government is in force, the ICCPR requires states to adopt such legislative and other measures that may be necessary to ensure that citizens have an effective opportunity to enjoy the rights it protects. This statement reflects the nature of the ICCPR and Article 25 as a legally binding human rights document and norm, creating formal obligations for states that have signed and ratified the ICCPR. Against this background, the ICCPR is clearly a binding human rights norm at the level of international law. Correspondingly, Article 25 of the ICCPR is binding in relation to the states that have ratified it. As a consequence, the provision

emerges as a norm that specifies in a legally binding form the contents of Article 21 in the Universal Declaration concerning the modalities of participation.

Article 25 of the ICCPR opens up with a *chapeau* containing a reference to “every citizen”. This is clearly a specification and delimitation of the contents of Article 21 in the Universal Declaration, where the terms “everyone” and “government of his country” are used. Now the situation is clear concerning the exercise of the sovereign law-making powers: the states may limit the rights guaranteed in Article 25 of the ICCPR to that group of persons the state itself has recognised as being its citizens.

The reference to not only the right but also the opportunity to take part differs, too, from Article 21 in the Universal Declaration. This reference is there to make clear to the states that the right to participate should not only be guaranteed as a right *de jure*, but also as a right *de facto*. Thus, the state is required to take so-called positive measures to realise the right to participate. Such positive measures may include, for example, the effective registration of voters that is as inclusive as possible, the provision of accessible and inclusive registration procedures for candidates, and the convenient locating of polling stations.

The distinctions referred to in Article 2 of the ICCPR include discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. These grounds of distinction are examples through which prohibited discrimination can be identified. The reference to Article 2 brings prohibition of discrimination into the ambit of Article 25 of the ICCPR, but it should be noted that such a dimension is included already in the very first word of Article 25: “every”.

As concerns the unreasonable restrictions referred to in the *chapeau*, nothing specific is mentioned. This means that the content of such restrictions is a matter of interpretation. The treaty-body created to oversee the implementation of the ICCPR, the UN HRC, is obviously the body which – especially on the basis of individual complaints that it receives – determines what is to be understood by unreasonable restrictions. Comments upon such restrictions may be found, for instance, in the cases of *Peter Chiiko Bwalya v. Zambia*, *Mátyus v. Slovakia*, and *Antonina Ignatane v. Latvia* (see footnotes below).

Paragraph (a) of Article 25 is a so-called “take part clause”, but in comparison with Article 21 of the Universal Declaration, the institutional scope of Article 25 is much broader. Whereas Article 21 is primarily focused on the government of a country, Article 25 of the ICCPR refers to the conduct of public affairs. Institutionally speaking, participation should thus not only take place in relation to the national government, but also in relation to other levels and forms of administration, such as regional and local government levels.

The HRC of the United Nations has, in its General Comment to Article 25 of the ICCPR, held that direct participation in the conduct of public affairs may imply that a person appears, for instance, as a voter in elections, as a voter in referendums, as a participant in local decision-making assemblies, as a member of legislative bodies, as a person holding executive office and as a member of a body which is established to represent citizens in consultation with government.

The way in which the representatives shall be chosen so that there is a free expression of the will of the people is established in paragraph (b) of Article 25. This paragraph can be understood as an operationalisation of paragraph (a) as concerns direct voter participation in elections and as concerns the reference to freely chosen representatives. This operationalisation actually defines what the ICCPR understands by the term “elections”. According to the article, there shall be the right and the opportunity “[t]o vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors”. This provision contains at least two distinct matters: firstly, the necessary elements for elections, and secondly, the idea of an electoral cycle or a time-span during which the various elements for elections shall be implemented.

It is also important to mention what Article 25(b) does *not* contain. Firstly, it does not contain a definition of democracy, although it seems to have a preference for a representative system of government. Direct popular decision-making is, however, not excluded. Secondly, it does not prescribe any particular electoral system.

As concerns the elements of election, it is possible to identify a number of distinct features, namely the right to vote and the right to stand as a candidate, genuine as well as periodic elections, universal as well as equal suffrage, the secrecy of the ballot and the free expression of the will of the electors. In relation to Article 21 of the Universal Declaration, the right to stand as a candidate is a new and very important dimension, not anymore only implied but made explicit.

There is a body of cases from so-called treaty-bodies supervising the application of the human rights treaties that illustrate the interpretation of the various election elements. The list of cases attached to the various election elements below will include jurisprudence from both the UN Human Rights Committee and the European human rights system,<sup>2</sup> as well as some cases from the Inter-American Commission on Human Rights, and the African Commission on Human and Peoples’ Rights. It should be noted that General Comment 25 concerning the right to participation of the UN HRC says something about virtually every election element.

As concerns the electoral cycle, it is possible to argue on the basis of paragraph (a) of Article 25 that the right to participate in the conduct of public affairs is a continuous right. Against the *periodic* background, it is possible to argue that in

the context of elections, the election elements included in paragraph (b) of Article 25 can be organised in an order which is more or less chronological:

- 1 Periodic elections
- 2 Genuine elections
- 3 Stand for election
- 4 Universal suffrage
- 5 Voting in elections on the basis of the right to vote
- 6 Equal suffrage
- 7 Secret vote
- 8 Free expression of the will of the voters

The attribution of a continuous character to the right to participate through elections strongly underlines the fact that the simple act of voting on Election Day does not exhaust elections nor consume this part of participation. Rather, the continuous character of elections implies that elections are an on-going process of a cyclical nature: when one election has been completed and those elected have assumed their seats, the process will start again from the beginning.<sup>3</sup>

The extension of elections far beyond the immediate act of voting also has wider implications. It makes it necessary to take into account a number of other human rights closely linked to the right to participation. The so-called political rights of freedom of association, freedom of assembly and freedom of speech are brought into the election context in a more substantive manner by a cyclical understanding of elections and through the requirement of the *genuine* nature of the elections.<sup>4</sup>

There is a reference in Article 25(b) to *the right to be elected*. In comparison with Article 21 of the Universal Declaration, the provision is a novelty. It does not imply that citizens have a subjective right to become members of any elected body, but rather that all citizens qualifying under the provisions of the law should have not only the right but also the opportunity to stand as a candidate. The right to stand for election also includes recognition of the right to stand as an independent candidate.<sup>5</sup> In fact, according to the interpretation of the UN HRC, the “effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates”. Combined with the principle that candidates cannot be required to be members of parties in the first place, nor of specific parties, or to hold some defined political opinion, the scene is opened up for a competitive election.

As a practical matter, the element of standing for election implies that the national law should contain sufficient provisions concerning registration of parties and candidates so as to give all political opinions and groupings equal opportunity – without any of the distinctions mentioned in Article 2 of the ICCPR and with-

out unreasonable restrictions – to officially become participants in the electoral process leading up to an election. Registration procedures should not be so difficult as to inhibit candidacy (e.g., extremely high number of supporters required for candidacy, or an excessive deposit required from a party before a list of candidates is accepted for elections). During this stage of the electoral cycle, which is crucial for the outcome of the elections, the free expression of the electors' will should not be unduly restricted, but rather promoted.

The element on the right to be elected could also be developed beyond ordinary concerns related to the nomination of candidates, so as to target a number of special groups such as women and minorities that may be at a disadvantage in the exercise of their rights in general, and their political rights in particular.

However, certain categories of persons may, under certain conditions, be excluded from the right to stand for elections. In the case of *Joszeif Debreczeny v. the Netherlands*, it was alleged that the refusal to accept the credentials of an elected person for a seat of a local council, because the person was a police sergeant in the national police force, would amount to a violation of Article 25 of the ICCPR. The UN HRC noted that “the restrictions on the right to be elected to a municipal council are regulated by law and that they are based on objective criteria, namely the electee’s professional appointment by or subordination to the municipal authority. Noting the reasons invoked by the State party for these restrictions, in particular, to guarantee the democratic decision-making process by avoiding conflicts of interests, the Committee considers that the said restrictions are reasonable and compatible with the purpose of the law.”

Through the term “every citizen”, the element of *universal suffrage* emphasises inclusiveness as well as non-discrimination within the group of persons to whom the right to vote is granted. As a practical matter, universal suffrage boils down to the composition of voters' lists during a period of time before the elections. The visible outcome is the specific list of voters managed by the election administrators on Election Day in the polling station.<sup>6</sup>

Voting in elections on the basis of the right to vote is normally quite uncontroversial once a voter is registered on the voters' list. It entails the rights of access to the polling station, to receive ballot materials, to mark the ballot paper in a polling booth, and to deposit the ballot paper in the ballot box. The right to vote can also be said to entail a right to have one's vote counted. The development of electronic methods of voting may affect the procedure of balloting, and it may contain problems from the point of view of at least two other election elements, namely the secrecy and the equality of the vote.<sup>7</sup>

The element of *equal suffrage* deals with the principle of “one person, one vote” and its adjacent dimension that each vote should carry more or less the same weight, with implications for the delineation of electoral district boundaries, thus prevent-

ing, *for instance*, so-called gerrymandering. However, if justifiable reasons exist, it should not be impossible to undertake positive measures under the election law in order to promote the political position of disadvantaged groups.<sup>8</sup>

The element of *secrecy* aims at ensuring for the voter an environment in which s/he can make her or his own choice, without undue influence or intimidation from any other person, and without fear that her or his choice would become known after the vote has been cast.

The final election element in Article 25(b) of the ICCPR, the element of the *free expression of the will of the electors*, is of a summary nature. Through the expression “guaranteeing”, it emphasises the importance of fulfilment of the other election elements. The free expression of the will of the voters is hence the aim of Article 25 of the ICCPR.

There are complicating factors here as well. For instance, political parties and candidates cannot, in most societies, carry out a significant election campaign without sufficient funds at their disposal. While such funds are needed, and the legality of donations to such ends cannot be questioned, campaign financing may come with strings that attach the party or the candidate to the donor. To prevent legitimate campaign funding from transgressing the line and becoming a non-legitimate method of influence, some regulatory measures are needed. This has been identified as an area of possible legislative action by the UN HRC: “Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.”

However, the issue of the free expression of the will of the electors is, of course, not closed once internal safeguards are in place. It must also be possible to bring issues dealing with the elections to external review as regards their legality. For this reason, complaints mechanisms should be in place. Voters, as well as parties and candidates, should be given the opportunity to claim their rights before the judiciary and raise claims about the conduct of the election administration, all the way from voter registration to the allocation of mandates. For instance, under Article 2(3) of the ICCPR, each State party to the ICCPR undertakes to ensure that any person, whose rights or freedoms recognized in the ICCPR are violated, has an effective remedy. The remedy should preferably be judicial. In terms of the UN HRC, “[t]here should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes”. The ultimate remedy should be the disqualification of the elections, with the practical outcome of new elections, either in the whole country or in the constituency that has been affected by misconduct.<sup>9</sup>

As our review of the contents of Article 25 of the ICCPR shows, the right to participation is particularly well-specified in the area of the electoral process, within which a number of well-established rules exist. A summary of what elections should look like under Article 25 of the ICCPR is contained in General Comment 25 of the UN HRC: “Although the Covenant does not impose any particular electoral system, any system operating in a State party must be compatible with the rights protected by article 25 and must guarantee and give effect to the free expression of the will of the electors. The principle of one person, one vote, must apply, and within the framework of each State’s electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.”

### 2.3 Participation of Special Groups

The issue of participation is discussed in a number of other more specific human rights documents, such as the 1965 UN Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) as well as in the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD).

#### Article 5 of the UN Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965)

States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...]

- (c) Political rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service; [...]

In Article 5 of the ICERD, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee to everyone, without distinction, the enjoyment of political rights, in particular the right to participate in elections through voting and through the opportunity to stand for election on the basis of universal and equal suffrage. Eligibility on equal terms is hence explicitly at the

core of Article 5(c) of the ICERD. The ICERD emphasises non-discrimination, but it also contains an element of positive measures when establishing a guarantee of the right to participation for everyone without distinction as to race, colour, or national or ethnic origin. In this respect the ICERD is of relevance for minorities of all kinds.

Women are clearly included among the persons who, on the basis of the Universal Declaration and the ICCPR, shall have the right to participate in government or public affairs respectively. However, the position of women in governmental structures does not reflect their share of the population, and therefore, the CEDAW has the important function of reminding everyone, and especially the States Parties, of the fact that women are part of the people.

#### **Article 7 of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979)**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; [...]

Article 7(a) of the CEDAW promotes inclusiveness for women by prescribing eligibility for election to all publicly elected bodies, and extends inclusiveness in paragraphs (b) and (c) to the practical functioning in elective office and to participation in non-governmental organisations and associations concerned with the public and political life of the country, so as to remind us of Article 20 in the UDHR and Article 22 in the ICCPR. This could function as a basis of special measures to support the position of women in political life. In addition, women shall, of course, have the right to vote in all elections and public referendums on equal terms with men.

The CEDAW and the ICERD – together with the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, in which the right of effective participation of minorities is mentioned – point out that there are certain disadvantaged groups in society which may need special attention in terms of participation. It is of little help that these groups have equal right to vote, if nominated candidates contain nobody from these groups. Therefore, it might be possible to promote the participation of these groups already at the nominations stage, for instance by informing them of the necessity to avail themselves of the legal mechanisms to nominate candidates.

This perspective gets much support also in Article 5 of the ICERD with a view to the groups mentioned therein. The ICERD provision separates immediate accessibility through participation from the right to take part in government, as well as in the conduct of public affairs at any level, and to have equal access to public service. Measures to promote accessibility are also recommended, for instance in the UN Declaration on Minorities. Its Article 2 tries to enhance the effective participation of minorities. One possible way could be so-called reserved seats for minority groups, created so as not to violate the election principles more than is justifiable and necessary.

Against this background, it is interesting to note what the European Court of Human Rights has said about pluralism, tolerance and broadmindedness as hallmarks of a so-called democratic society: “Although individual interests must on occasion be subordinated to those of a group, democracy does not simply mean that the views of a majority must always prevail: a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position.”<sup>10</sup>

A recent addition to the norms concerning special groups is the CRPD, which contains strong language on participation of persons with disabilities in Article 29. While the provision creates positive obligations on the part of the state to take into account disabled voters, it simultaneously benefits every other voter in many ways.

## 2.4 Developments in Europe

Post-1948, the plan to adopt at global level a complete Bill of Human Rights of a binding nature proved to be a difficult matter, mainly because of the Cold War and the differences of opinion between the West and the East concerning the contents of human rights. Instead, steps were taken at regional level, particularly in Europe, where the Council of Europe and its Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) were created in 1949 and 1950, respectively. The ECHR did not in its original fashion of 1950 contain any mention of participation as such, although its articles made provisions concerning the adjacent political rights, that is, everyone’s freedom of expression, freedom of association and freedom of assembly.

Interestingly, rather than providing citizens with a right to vote in elections, Article 3 of the First Protocol from 1952 places an obligation on the States to organise elections. Thus the wording of Article 3 does not indicate any individual right to participation in elections. Nevertheless, the European Court of Human Rights has pronounced itself on the matter and interpreted the article as an individual right, on the basis of which an individual under the jurisdiction of the member states can file individual complaints against that state. In fact, the inter-

pretations of the Court have changed the contents of the article so much that the article could *de facto* be read as follows: “Every citizen has the right to vote and to stand as a candidate in free elections that are held at reasonable intervals by ...”. The people referred to in the article is hence to be understood as the citizens of the state, in the form of the electorate.

Elections according to Article 3 in the First Protocol shall, in addition, be by reasonable intervals. This qualification is somewhat more specific than the principle of periodic elections in Article 21 of the Universal Declaration and Article 25 of the ICCPR. In addition to the requirement of *fixed* intervals in national legislation, Article 3 asks the state to establish a *reasonable* interval for the elections. This requirement certainly excludes the possibility of fixing very long intervals – such as a generation or 10 years – while indicating that a normal length of parliamentary period should be identified. In the Member States of the Council of Europe, that period is probably between 3 and 6 years. It is not quite clear on the basis of the wording of Article 3 what the “conditions which will ensure the free expression of the opinion of the people” are, but generally speaking the idea is to facilitate an atmosphere during the election times which is free from intimidation or coercion.

The freedom of political choice familiar to us from the Universal Declaration and the ICCPR, is also reflected in the OSCE principles adopted in the so-called Copenhagen Document, which came into existence in the period following the era of the Cold War. In this document, Paragraph 3, it is declared that the participating States recognise the importance of pluralism with regard to political organisations. The Copenhagen Document maintains that “the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of authority and legitimacy of all government”. It is emphasised that “citizens should be able to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes”.

#### The OSCE Copenhagen Document (1991)

- (7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will
  - (7.1) hold free elections at reasonable intervals, as established by law;
  - (7.2) permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;
  - (7.3) guarantee universal and equal suffrage to adult citizens;

- (7.4) ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public;
- (7.5) respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;
- (7.6) respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;
- (7.7) ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;
- (7.8) provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;
- (7.9) ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

Paragraphs 7.1 and 7.2 of the Copenhagen Document make the same point at the level of political competition. Paragraph 7.2 stipulates that the participating States will “permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote”. This is sustained in Paragraph 7.6, which emphasises the necessity of legal guarantees to enable political parties and organisations to compete with each other on a basis of equal treatment before the law and the authorities. Competition between political contestants will be the basis for the expression of the electors’ free will.

## 2.5 Participation in the Americas, Africa and Asia

### *The Americas*

The Charter of the Organization of American States (1948) in its Preamble makes an important statement concerning national decision-making by concluding that representative democracy is an indispensable condition for the stability, peace and development of the region. In Article 2(b) of the OAS Charter, the promotion and consolidation of representative democracy is identified as an essential purpose of the OAS. It is therefore not surprising that the American Convention on Human Rights of 1969 in its Article 23 very much repeats the language of Article 25 of the ICCPR.

According to Article 3 of the Charter of the OAS, the essential elements of representative democracy include, *inter alia*, “respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government”. Elections are here embedded in a broader context of constitutional features. This is sustained by a provision on the right to vote and to participate in government in Article XX of the American Declaration of the Rights and Duties of Man (1948) and by the Inter-American Democratic Charter (2001).

One difference between Article 25 of the ICCPR and Article 23 of the American Convention on Human Rights is that the American Convention adds a limitation clause. On the basis of this clause, the States Parties can, in national law, regulate the exercise of the rights and opportunities to participate in government on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings. Of these, at least language and education can be considered problematic against the background of Article 25 of the ICCPR, which in its *chapeau* makes a reference to the principle of non-discrimination in its Article 2 and to the prohibition of unreasonable restrictions. The language criterion could perhaps also be problematic in relation to Article 27 of the ICCPR and the recognition granted to linguistic minorities, while the educational criterion could be problematic against the background of the right to education in Article 13 of the Covenant on Economic, Social and Cultural Rights. If a State is party to the American Convention and the ICCPR at the same time, and chooses to use national legislation to create a legal limitation on the right of participation on grounds of language or education, it might be possible to argue that the national law is not in harmony with Article 25 of the ICCPR.

### *Africa*

On the African continent, the African Charter on Human and Peoples' Rights was concluded in 1981. In Article 13 of this Charter, there is a participation clause that opens up in a manner similar to Article 25 of the ICCPR and Article 21 of the Universal Declaration. However, Article 13 of the African Charter lacks an operationalisation of participation in the field of elections.

On the basis of Article 13, it is clear that citizens have the right to take part in government. It is also possible to maintain, on the basis of the provision about participation in the government of one's country, that the article is mainly targeted towards the national level, leaving regional and local levels aside. Participation should be free, and representatives should be freely chosen. However, Article 13(1) of the African Charter makes the implementation of the right to participation almost entirely dependent on national law.

The African Charter says nothing concrete about how participation should take place. More importantly, the principles governing elections are not explicitly prescribed, although Article 13(1) mentions that participation can be direct or through freely chosen representatives. The latter part – the freely chosen representatives – seems to presuppose elections, but neither elections nor election elements are prescribed. Nonetheless, the practice of the African Commission on Human and Peoples' Rights indicates that at least the most extreme forms of exclusion of the people from national decision-making, such as military overthrow of civilian government, are not acceptable under Article 13(1) of the African Charter. Such a point is made in relation to election observation in the case of the *Constitutional Rights Project and Civil Liberties Organisation v. Nigeria* by the African Commission on Human and Peoples' Rights. In its submission to the African Commission, the Nigerian government acknowledged that international observers of elections, applying international standards, judged the elections to be free and fair. "Yet it discounted the judgment of these international observers and substituted its own, unsupported, judgment" when the Nigerian military government annulled the results from the presidential election of 1993. "A basic premise of international human rights law is that certain standards must be constant across national borders, and governments must be held accountable to these standards. The criteria for what constitutes free and fair elections are internationally agreed upon, and international observers are put in place to apply these criteria. It would be contrary to the logic of international law, if a national government with a vested interest in the outcome of an election, were the final arbiter of whether the election took place in accordance with international standards."<sup>11</sup> The African Commission on Human and Peoples' Rights held that Nigeria had violated, *inter alia*, Article 13 of the African Charter.

The OAU/AU Declaration of July 2002 is more explicit with regard to the rights and obligations relating to elections, and is also useful for consideration of the commitment to democratic elections in the African context.

### **The OAU/AU Declaration on the Principles Governing Democratic Elections in Africa (2002)**

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Adopted at the 38th Ordinary Session of the Organization of African Unity, 8 July 2002, Durban South Africa.

#### **IV. ELECTIONS: RIGHTS AND OBLIGATIONS**

1. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law.
2. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according to the laws of the country and as guaranteed by the Constitution, without any kind of discrimination.
3. Every citizen shall have the right to free association and assembly in accordance with the law.
4. Every citizen shall have the freedom to establish or to be a member of a political party or organization in accordance with the law.
5. Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions with full access to the media and information within the limits of the laws of the land.
6. Individual or political parties shall have the right to appeal and to obtain timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country.
7. Candidates or political parties shall have the right to be represented at polling and counting stations by duly designated agents or representatives.

8. No individual or political party shall engage in any act that may lead to violence or deprive others of their constitutional rights and freedoms. Hence all stakeholders should refrain from, among others, using abusive language and/or incitement to hate or defamatory allegations and provocative language. These acts should be sanctioned by designated electoral authorities.
9. All stakeholders in electoral contests shall publicly renounce the practice of granting favours, to the voting public for the purpose of influencing the outcome of elections.
10. In covering the electoral process, the media should maintain impartiality and refrain from broadcasting and publishing abusive language, incitement to hate, and other forms of provocative language that may lead to violence.
11. Every candidate and political party shall respect the impartiality of the public media by undertaking to refrain from any act which might constrain or limit their electoral adversaries from using the facilities and resources of the public media to air their campaign messages.
12. Every individual and political party participating in elections shall recognize the authority of the Electoral Commission or any statutory body empowered to oversee the electoral process and accordingly render full cooperation to such a Commission/Body in order to facilitate their duties.
13. Every citizen and political party shall accept the results of elections proclaimed to have been free and fair by the competent national bodies as provided for in the Constitution and the electoral laws and accordingly respect the final decision of the competent Electoral Authorities or, challenge the result appropriately according to the law.

The African Charter on Democracy, Elections and Governance (2007) is an important addition to the regional regulation of elections, specifying in its Article 17 the contents of democratic elections and reinforcing the normative nature of the above Declaration by re-affirming the commitment of the State Parties to holding regular, transparent, free and fair elections in accordance with the Declaration.

*Asia*

In Asia, there are no regional-level human rights conventions and consequently no specific regionally expressed right to participation with rules on elections. In case of elections organized in Asia, Article 25 of the ICCPR is applicable, if a State has ratified it. If this is not the case, an argument to the same effect in the electoral area could be developed on the basis of Article 21 of the Universal Declaration.

## 2.6 Conclusion

In the UN General Assembly resolution on Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections, the member states of the UN stress their “conviction that periodic and genuine elections are a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed, and that the right of everyone to take part in the government of his or her country is a crucial factor in the effective enjoyment by all of a wide range of other human rights and fundamental freedoms”.

This statement does not deny the indivisibility or interdependence of human rights, nor is it an attempt to produce a hierarchy of human rights. Nonetheless, the resolution may suggest a logical ordering of human rights, so that full realisation of the right to participation, especially in the field of elections, will produce a representative law-making body, capable of catering for all the other substantive human rights.

Participation through elections and, where applicable, through referendums must therefore be respected, protected, promoted and fulfilled as a human right.

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1. Unattributed quotes of text later in this section are from this General Comment 25 on The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Art. 25) (1996) by the HRC.

2. It should be noted that the cases resolved by the European Court of Human Rights do not have any binding effect outside the immediate European context, but they can be useful at least for giving direction to the argumentation and possibly also for interpretation.

3. Concerning the element of periodic elections, see the *Greek Case* (Yearbook of the European Convention on Human Rights, Vol. 12(1969)).

4. Concerning the element of genuine elections under the ICCPR, see the case of *Kim Jong-Cheol v. the Republic of Korea* (Comm. 968/2001, U.N.Doc. ICCPR/C/84/D/968/2001), which deals with the element of genuine elections from the perspective of the freedom of the press. For genuine elections under the ECHR, see the *Greek Case* (Yearbook of the European Convention on Human Rights, Vol. 12(1969)), *Oberschlick v. Austria* (ECtHR A 204 (1990)), *Lopes Gomes da Silva v. Portugal* (ECtHR, Judgment of 28 September 2000, Reports of Judgments and Decisions 2000-X), *Bowman v. U.K.* (ECtHR, Judgment of 19 February 1998, Reports of Judgments and Decisions 1998-I), *Incal v. Turkey* (ECtHR, Judgment of 9 June 1998, Reports of Judgments and Decisions 1998-IV) and *Malisiewicz-Gasior v. Poland*

(ECtHR, Judgment of 6 April 2006) in the freedom of expression and media area, while cases such as *Socialist Party and others v. Turkey* (ECtHR, Judgment of 25 May 1998, Reports of Judgments and Decisions 1998-III), *United Communist Party and others v. Turkey* (ECtHR, Judgment of 30 January 1998, Reports of Judgments and Decisions 1998-I), *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria* (ECtHR, Judgment of 2 October 2001, Reports of Judgments and Decisions 2001-IX), the *Welfare Party v. Turkey* (ECtHR, Judgment of 13 February 2003), *Gorzelik and others v. Poland* (ECtHR, Judgment of 17 February 2004), *Linkov v. the Czech Republic* (ECtHR, Judgment of 7 December 2006), *Kavakçı v. Turkey* (ECtHR, Judgment of 5 April 2007) and *Silay v. Turkey* (ECtHR, Judgment of 5 April 2007) illustrate the right to association and assembly. The case of *Rekvényi v. Hungary* (ECtHR, Judgment of 20 May 1999) illustrates both the freedom of expression and the freedom of association area.

5. Concerning the element of the right to stand as a candidate under the ICCPR, see the cases of *Peter Chiiko Bwalya v. Zambia* (Comm. 314/1988, U.N. Doc. ICCPR A/48/40(1993)), *Alba Pietraroia v. Uruguay* (Comm. 44/1979, views adopted on 27 March 1981, and a number of other similar cases), *Joszef Debrezseny v. the Netherlands* (Comm. 500/1992, U.N. Doc. ICCPR A/50/40(1995)), *Antonina Ignatane v. Latvia* (Comm. 884/1999, U.N. Doc. ICCPR/C/72/D884/1999), and *Fongum Gorji-Dinka v. Cameroon* (Comm. 1134/2002, U.N. Doc. ICCPR/C/83/D/1134/2002). See also from the ambit of the Inter-American Convention on Human Rights the case of *Andres Aylwin Azocar et al. v. Chile* (Report No. 137/99 of December 27, 1999, by the Inter-American Commission on Human Rights), *Whitbeck Piñol v. Guatemala* (Report No. 21/94 of September 22, 1994, by the Inter-American Commission on Human Rights) and *Yatama v. Nicaragua* (Inter-American Court of HR, Judgment of 23 June 2005, Series C No. 127). For the right to stand as a candidate under the ECHR, see *Gitonas and others v. Greece* (ECtHR, Judgment of 1 July 1997, Reports of Judgments and Decisions 1997-IV, No. 42), *Ahmed and others v. the United Kingdom* (Application No. 22954/93, ECtHR, Judgment of 2 September 1998), *Selim Sadak and others v. Turkey* (ECtHR, Judgment of 11 June 2002, para. 4), *Podkolzina v. Latvia* (ECtHR, Judgment of 9 April 2002), *Melnychenko v. Ukraine* (ECtHR, Judgment of 30 March 2005), *Sukhovetskyy v. Ukraine* (ECtHR, Judgment of 28 March 2006), *Ždanoka v. Latvia* (ECtHR, Judgment of 16 March 2006), and *Russian Conservative Party of Entrepreneurs and Others v. Russia* (ECtHR, Judgment of 11 January 2007).

6. Concerning the element of universal suffrage under the ICCPR, see *Fongum Gorji-Dinka v. Cameroon* (Comm. 1134/2002, U.N. Doc. ICCPR/C/83/D/1134/2002) and *Marie-Hélène Gillot et al. v. France* (Comm. 932/2000, U.N. Doc. ICCPR/C/75/D/932/2000). See also from the ambit of the Inter-American Convention on Human Rights the case of *Andres Aylwin Azocar et al. v. Chile* (Report No. 137/99 of December 27, 1999, by the Inter-American Commission on Human Rights) and *Statehood Solidarity Committee v. United States* (Report No. 98/03 of December 29, 2003, by the Inter-American Commission on Human Rights). For universal suffrage under the ECHR, see *Polacco and Garofalo v. Italy* (ECommHR No. 23450/94, Commission decision of 15 September 1997, DR 90-A), *Labita v. Italy* (Application No. 26772/95, ECtHR, Judgment of 6 April 2001), *Matthews v. the United Kingdom* (Judgment of 18 February 1999, Reports of Judgments and Decisions 1999-I), *Vito Sante Santoro v. Italy* (ECtHR, Judgment of 1 July 2004), *Aziz v. Cyprus* (ECtHR, Judgment of 22 June 2004), *Py v. France* (ECtHR, Judgment of 11 January 2005), *Hirst v. the United Kingdom* (ECtHR, Judgment of 6 October 2005), *Albanese v. Italy*, (ECtHR, Judgment of 23 March 2006), *Vitiello v. Italy* (ECtHR, Judgment of 23 March 2006) and *Campanano v. Italy* (ECtHR, Judgment of 23 March 2006).

7. Concerning the element of the right to vote under the ICCPR, the Inter-American Human Rights System and the ECHR, see the cases mentioned in relation to universal suffrage, above. See also from the ambit of the African Charter of Human Rights and Peoples' Rights the case of *Peoples' Democratic Organisation for Independence and Socialism v. The Gambia* (Comm. No. 44/90(1996), Report on an Amicable Resolution, of the African Commission on Human and Peoples' Rights).

8. Concerning the element of equal suffrage under the ICCPR, see *Istvan Mátyus v. Slovakia* (Comm. 923/2000, U.N. Doc. ICCPR/C/75/D/923/2000), which, however, was not resolved on the basis of art. 25(b), but on the basis of art. 25(c).

9. Concerning the element of free expression of the will of the electors under the ICCPR, see *Leonid Sinitsin v. Belarus* (Comm. 1047/2002, U.N. Doc. CCPR/C/88/D/1047/2002). See also from the ambit of the Inter-American Convention on Human Rights the case of *Susana Higuchi Miyagawa v. Peru* (Report No. 119/99 of October 6, 1999, by the Inter-American Commission of Human Rights and from the ambit of the African Charter of Human Rights and Peoples' Rights the case of *Constitutional Rights Project and Civil Liberties Organisation v. Nigeria* (Afr.Comm.HPR, Comm. No. 102/93 (1998)). For the same area under the ECHR, see *Mathieu-Mohin and Clerfayt v. Belgium* (ECtHR, Judgment of 2 March 1987, Series A, vol. 113) which is a leading case summarising the interpretation of electoral rules under Art. 3 of the First Protocol to the ECHR. See also *Selim Sadak and others v. Turkey* (ECtHR, Judgment of 11 June 2002, para. 4), *Lykourazos v. Greece* (ECtHR, Judgment of 15 June 2006), *Yumak and Sadak v. Turkey* (ECtHR, Judgment of 30 January 2007) and *Ilicak v. Turkey* (ECtHR, Judgment of 5 April 2007).

10. *Young, James and Webster* (ECtHR, Judgment of 13 August 1981, Series A, Vol. 44). However, the case arose in a trade union context.

11. Afr.Comm. HPR, Comm. No. 102/93 (1998), paras. 47-48.

## 3. Explanations on Categories of Election Standards

This compendium contains a series of documents or instruments of relevance for election observation missions. Some have been adopted at international (universal) level, others at regional level, and the nature of the various standards varies from that of legal obligation to political commitment.

### 3.1 Levels of Standards

*Universal instruments* have been worked out and adopted within the United Nations (UN), usually as a result of negotiation and diplomatic exchanges. Since almost all states are represented in the UN, instruments and texts adopted tend to have a large degree of support at the universal level.

*Regional instruments* have been compiled and adopted within regional organisations, such as the African Union, the Organization of American States, the Council of Europe or the Commonwealth of Independent States.

### 3.2 Types of Standards

*Treaty standards* are standards contained in a treaty. A treaty can be concluded at both international and regional level, and it is binding under international law for those states expressing their consent to be bound by the treaty. The Vienna Convention on the Law of Treaties, in which the law of treaties has been codified, defines a treaty as an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation. States cannot by acts or omissions derogate from the treaty standards, unless this is expressly provided for in the treaty, or the state has made a specific reservation to that effect. The consent of a state to be bound by a treaty is usually expressed by ratification of the treaty (symbol in the matrixes below: ●), which can be preceded by signing of the instrument (symbol in the matrixes: s). When a state has signed or expressed its

consent to be bound by the treaty, pending the treaty's entry into force, the state is obliged to refrain from acts that would defeat the object and purpose of a treaty. Unless otherwise indicated, the instruments included in this compendium are in force internationally in relation to the states that have ratified them. Treaties are denominated in a variety of ways, e.g. as treaties, agreements, conventions, charters, or protocols. Examples of treaties included in this compendium are the International Covenant on Civil and Political Rights (1966); the Convention on the Elimination of All Forms of Discrimination against Women (1979); the African Charter on Human and Peoples' Rights (1981), the Framework Convention for the Protection of National Minorities (1995). The information about ratification and signature status and also information about membership in international organisations contained in the matrixes has been retrieved from the United Nations Treaty Series database, and from the homepages of the respective international organisations during *June 2007*.

*Non-treaty standards* are sometimes called "soft law" instruments. This is a body of resolutions of inter-governmental organisations containing declarations, commitments, joint statements, or declarations of policy or intentions. The main factor distinguishing non-treaty standards from legally binding commitments contained in treaties is the intention of the drafters, i.e. did they intend for the document to be legally binding or not? Non-treaty standards are usually adopted by the highest decision-making bodies of international organisations concerning issues that reflect new concerns or developments, on which the political will to conclude a legally binding treaty is insufficient, or the matter is of such a nature that the adoption of non-treaty standards is better suited for the intended purpose. Non-treaty standards can, however, be used as interpretative tools in establishing the contents of a particular treaty standard, and they can be considered to be indicative of emerging trends in international law. In that respect, they contribute to the formation of customary international law, especially if adopted by consensus or by a majority vote. Resolutions (except for Security Council resolutions, which are legally binding) and declarations adopted under the auspices of the United Nations are typical examples of non-treaty standards. The Universal Declaration of Human Rights (1948) is an example of a non-treaty standard, the provisions of which constitute a strong moral commitment to the protection of the human rights contained in the declaration. Some of its provisions are binding at the level of customary international law. However, this does not yet seem to be the case concerning Article 21 on participation and elections. Other examples of non-treaty standards referred to in this compendium are the General Assembly Resolution (A/RES/46/137) (1991) on Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections; the OAU/AU Declaration on the Principles Governing Democratic Elec-

tions (AHG/Dec.1 (XXXVIII)) (2002) and the Inter-American Democratic Charter (2001).

*Political commitments* may contain standards, but can be considered more of a political dialogue between the states concerned, the intention of which is not to make the standards binding at the level of international law. Political commitments are pledges that governments make to each other to comply with certain standards of conduct, but without the threat of formal sanctions normally attached to the violation of treaty standards. Examples of political commitments contained in the compendium are the OSCE Copenhagen Meeting Declaration (1990) and the OSCE Istanbul Summit Declaration (1999); and the Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (2001) adopted by ECOWAS.

*Other initiatives* referred to in this compendium are policy papers that certain appointed commissions are working on, or draft conventions and declarations that have not yet been adopted and can therefore neither be considered as legally nor politically binding documents. In this compendium, reference is made for example to the Guidelines on Elections (2002) by the Venice Commission.

*General comments (or recommendations)* are issued by human rights treaty monitoring bodies in order to announce their interpretations of different provisions of the pertinent treaty. This also serves to make the experience of the monitoring body available for the benefit of all States Parties, and to promote the further implementation of the treaty and facilitate the compilation of state reports. The general comments are relied upon by the monitoring bodies in evaluating the compliance of states with their obligations under the treaty in question. General comments referred to in this compendium are, for example, the General Comment 25 on The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Art. 25) (1996) adopted by the Human Rights Committee, and Article 5 (1996) and General Recommendation 23 on Political and Public Life (1997) adopted by the Committee on the Elimination of All Forms of Discrimination Against Women.

## 4. Matrix Indicating Membership of Universal and Regional Organisations<sup>12</sup>

### Africa

	UN	AU	ECOWAS	OAS	CoE	CIS	LAS	OIC	Commonwealth	OSCE	EU	SADC
Algeria	•	•					•	•				
Angola	•	•										•
Benin	•	•	•					•				
Botswana	•	•							•			•
Burkina Faso	•	•	•					•				
Burundi	•	•										
Cameroon	•	•						•	•			
Cape Verde	•	•	•									
Central African Republic	•	•						[•] <sup>13</sup>				
Chad	•	•						•				
Comoros	•	•					•	•				
Congo	•	•										
Côte d'Ivoire	•	•	•					•				
Democratic Republic of the Congo	•	•										•
Djibouti	•	•					•	•				
Egypt	•	•					•	•				

12. The names indicated in this matrix do not imply official endorsement or acceptance by the European Union.

13. The symbol [•] will be used to indicate observer or associated status of states in international organisations. The Central African Republic has observer status.

	UN	AU	ECOWAS	OAS	CoE	CIS	LAS	OIC	Commonwealth	OSCE	EU	SADC
Equatorial Guinea	•	•										
Eritrea	•	•										
Ethiopia	•	•										
Gabon	•	•						•				
Gambia	•	•	•					•	•			
Ghana	•	•	•						•			
Guinea	•	•	•					•				
Guinea-Bissau	•	•	•					•				
Kenya	•	•							•			
Lesotho	•	•							•			•
Liberia	•	•	•									
Libyan Arab Jamahiriya	•	•					•	•				
Madagascar	•	•										•
Malawi	•	•							•			•
Mali	•	•	•					•				
Mauritania	•	•					•	•				
Mauritius	•	•							•			•
Morocco	•						•	•				
Mozambique	•	•						•	•			•
Namibia	•	•							•			•
Niger	•	•	•					•				
Nigeria	•	•	•					•	•			
Rwanda	•	•										
Sao Tome and Principe	•	•										
Senegal	•	•	•					•				
Seychelles	•	•							•			
Sierra Leone	•	•	•					•	•			
Somalia	•	•					•	•				
South Africa	•	•							•			•
Sudan	•	•					•	•				

	UN	AU	ECOWAS	OAS	CoE	CIS	LAS	OIC	Commonwealth	OSCE	EU	SADC
Swaziland	•	•							•			•
Territory of Western Sahara		•										
Togo	•	•	•					•				
Tunisia	•	•					•	•				
Uganda	•	•						•	•			
United Republic of Tanzania	•	•							•			•
Zambia	•	•							•			•
Zimbabwe	•	•										•

## South America

Argentina	•			•								
Bolivia	•			•								
Brazil	•			•								
Chile	•			•								
Colombia	•			•								
Ecuador	•			•								
Guyana	•			•				•	•			
Paraguay	•			•								
Peru	•			•								
Suriname	•			•				•				
Uruguay	•			•								
Venezuela	•			•								

## North America

	UN	AU	ECOWAS	OAS	CoE	CIS	LAS	OIC	Commonwealth	OSCE	EU	SADC
Antigua and Barbuda	•			•					•			
Bahamas	•			•					•			
Barbados	•			•					•			
Belize	•			•					•			
Canada	•			•					•	•		
Costa Rica	•			•								
Cuba	•			• <sup>14</sup>								
Dominica	•			•					•			
Dominican Republic	•			•								
El Salvador	•			•								
Grenada	•			•					•			
Guatemala	•			•								
Haiti	•			•								
Honduras	•			•								
Jamaica	•			•					•			
Mexico	•			•								
Nicaragua	•			•								
Panama	•			•								
Saint Kitts and Nevis	•			•					•			
Saint Lucia	•			•					•			
Saint Vincent and the Grenadines	•			•					•			
Trinidad and Tobago	•			•					•			
United States of America	•			•						•		

14. In 1962 the Ministers of Foreign Affairs of OAS states excluded the current government of Cuba from participating in the Organisation

## Asia

	UN	AU	ECOWAS	OAS	CoE	CIS	LAS	OIC	Commonwealth	OSCE	EU	SADC
Afghanistan	•							•				
Armenia	•				•	•				•		
Azerbaijan	•				•	•		•		•		
Bahrain	•						•	•				
Bangladesh	•							•	•			
Bhutan	•											
Brunei Darussalam	•							•	•			
Cambodia	•											
China	•											
Democratic People's Republic of Korea	•											
Georgia	•				•	•				•		
India	•								•			
Indonesia	•							•				
Iran (Islamic Republic of)	•							•				
Iraq	•						•	•				
Israel	•											
Japan	•											
Jordan	•						•	•				
Kazakhstan	•					•		•		•		
Kuwait	•						•	•				
Kyrgyzstan	•					•		•		•		
Lao People's Democratic Republic	•											
Lebanon	•						•	•				
Malaysia	•							•	•			
Maldives	•							•	•			
Mongolia	•											
Myanmar	•											
Nepal	•											

	UN	AU	ECOWAS	OAS	CoE	CIS	LAS	OIC	Commonwealth	OSCE	EU	SADC
Oman	•						•	•				
Pakistan	•							•				
Palestinian Authority of the West Bank and Gaza Strip	[•] <sup>15</sup>					•	•					
Philippines	•											
Qatar	•						•	•				
Republic of Korea	•											
Saudi Arabia	•						•	•				
Singapore	•								•			
Sri Lanka	•								•			
Syrian Arab Republic	•						•	•				
Tajikistan	•					•		•		•		
Thailand	•								[•] <sup>16</sup>			
Timor-Leste	•											
Turkmenistan	•					•		•		•		
United Arab Emirates	•						•	•				
Uzbekistan	•					•		•				
Viet Nam	•											
Yemen	•						•	•				

15. The Palestinian Authority of the West Bank and Gaza Strip is not a member state of the United Nations, but it has observer status.

16. Thailand has observer status.

## Australasia/Oceania

	UN	AU	ECOWAS	OAS	CoE	CIS	LAS	OIC	Commonwealth	OSCE	EU	SADC
Australia	•								•			
Fiji	•								• <sup>17</sup>			
Kiribati	•								•			
Marshall Islands	•											
Micronesia (Federated States of)	•											
Nauru	•								• <sup>18</sup>			
New Zealand	•								•			
Palau	•											
Papua New Guinea	•								•			
Samoa	•								•			
Solomon Islands	•								•			
Tonga	•								•			
Tuvalu	•								•			
Vanuatu	•								•			

17. Fiji Islands was suspended from the Councils of the Commonwealth in December 2006 following a military coup.

18. Nauru is a Special Member of the Commonwealth.

## Europe

	UN	AU	ECOWAS	OAS	CoE	CIS	LAS	OIC	Commonwealth	OSCE	EU	SADC
Albania	•				•			•		•		
Andorra	•				•					•		
Austria	•				•					•	•	
Belarus	•					•				•		
Belgium	•				•					•	•	
Bosnia and Herzegovina	•				•			[•] <sup>19</sup>		•		
Bulgaria	•				•					•	•	
Croatia	•				•					•		
Cyprus	•				•			[•] <sup>20</sup>	•	•	•	
Czech Republic	•				•					•	•	
Denmark	•				•					•	•	
Estonia	•				•					•	•	
Finland	•				•					•	•	
France	•				•					•	•	
Germany	•				•					•	•	
Greece	•				•					•	•	
Holy See	[•] <sup>21</sup>									•		
Hungary	•				•					•	•	
Iceland	•				•					•		
Ireland	•				•					•	•	
Italy	•				•					•	•	
Latvia	•				•					•	•	
Liechtenstein	•				•					•		
Lithuania	•				•					•	•	
Luxembourg	•				•					•	•	
Malta	•				•				•	•	•	
Monaco	•				•					•		

19. Bosnia and Herzegovina has observer status.

20. The Turkish Cypriot State has observer status.

21. The Holy See has observer status.

	UN	AU	ECOWAS	OAS	CoE	CIS	LAS	OIC	Commonwealth	OSCE	EU	SADC
Montenegro	•									•		
Netherlands	•				•					•	•	
Norway	•				•					•		
Poland	•				•					•	•	
Portugal	•				•					•	•	
Republic of Moldova	•				•	•				•		
Romania	•				•					•	•	
Russian Federation	•				•	•		[•] <sup>22</sup>		•		
San Marino	•				•					•		
Serbia	•				•					•		
Slovakia	•				•					•	•	
Slovenia	•				•					•	•	
Spain	•				•					•	•	
Sweden	•				•					•	•	
Switzerland	•				•					•		
The Former Yugoslav Republic of Macedonia	•				•					•		
Turkey	•				•			•		•		
Ukraine	•				•	•				•		
United Kingdom of Great Britain and Northern Ireland	•				•				•	•	•	

22. The Russian Federation has observer status.

## 5. Universal Instruments

### The United Nations (UN)

The United Nations was established on 24 October 1945. Its purposes and principles are set out in its Charter and include the promotion and encouragement of respect for human rights and fundamental freedoms without distinction. The Universal Declaration of Human Rights (UDHR) was passed as a resolution by the General Assembly in December 1948 and is the cornerstone of the international human rights protection system. Various UN treaties have subsequently elaborated on the provisions of the UDHR. These instruments are open for ratification by all member states and are legally binding to those states which become parties to them, subject to reservations and declarations. The implementation of these core human rights treaties is monitored by committees of experts, who consider States Parties' periodic reports on the measures they have adopted to give effect to the rights in the instruments. States Parties can also choose to recognise the competence of the committees to receive communications from other States Parties or individuals alleging that it has not fulfilled its obligations.

The General Assembly has also passed a number of resolutions and declarations pertinent to elections.

### Universal Declaration of Human Rights (UDHR) (1948)

#### *Article 19*

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

*Article 20*

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

*Article 21*

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

## 5.1. Treaty standards

### 5.1.1. *The International Covenant on Civil and Political Rights (ICCPR) (1966)*<sup>23</sup>

*Article 19*

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

*Article 20*

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

*Article 21*

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

*Article 22*

1. Everyone shall have the right to freedom of association with others.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*),

the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

*Article 25*

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2, and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

**5.1.2. General Comment 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Art. 25) (1996).<sup>24</sup>**

3. No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Distinctions between those who are entitled to citizenship by birth and those who acquire it by naturalization may raise questions of compatibility with article 25. State reports should indicate whether any groups, such as permanent residents, enjoy these rights on a limited basis, for example, by having the right to vote in local elections or to hold particular public service positions.
4. Any conditions which apply to the exercise of the rights protected by article 25 should be based on objective and reasonable criteria. For example, it may be reasonable to require a higher age for election or appointment to particular offices than for exercising the right to vote, which should be available to every adult citizen. The exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable. For example, established mental incapacity may be a ground for denying a person the right to vote or to hold office.
6. Citizens participate directly in the conduct of public affairs when they exercise power as members of legislative bodies or by holding executive office. This right of direct participation is supported by paragraph (b). Citizens also participate directly in the conduct of public affairs when they choose or change their constitution or decide public issues through a referendum or other electoral process conducted in accordance with paragraph (b). Citizens may participate direct-

ly by taking part in popular assemblies which have the power to make decisions about local issues or about the affairs of a particular community and in bodies established to represent citizens in consultation with government.

7. Where citizens participate in the conduct of public affairs through freely chosen representatives, it is implicit in article 25 that those representatives do in fact exercise governmental power and that they are accountable through the electoral process for their exercise of that power. It is also implicit that the representatives exercise only those powers which are allocated to them in accordance with constitutional provisions. Participation through freely chosen representatives is exercised through voting processes which must be established by laws that are in accordance with paragraph (b).
9. Paragraph (b) of article 25 sets out specific provisions dealing with the right of citizens to take part in the conduct of public affairs as voters or as candidates for election. Genuine periodic elections in accordance with paragraph (b) are essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them. Such elections must be held at intervals which are not unduly long and which ensure that the authority of government continues to be based on the free expression of the will of electors. The rights and obligations provided for in paragraph (b) should be guaranteed by law.
10. The right to vote at elections and referenda must be established by law and may be subject only to reasonable restrictions, such as setting a minimum age limit for the right to vote. It is unreasonable to restrict the right to vote on the ground of physical disability or to impose literacy, educational or property requirements. Party membership should not be a condition of eligibility to vote, nor a ground of disqualification.
11. States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote. Any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced. Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.
12. Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected. Positive measures should be taken to overcome specific difficulties, such as illiteracy, language barriers, poverty, or impediments to freedom of movement which

prevent persons entitled to vote from exercising their rights effectively. Information and materials about voting should be available in minority languages. Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have adequate information on which to base their choice.

14. If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence. Persons who are deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote.
15. The effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates. Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation. No person should suffer discrimination or disadvantage of any kind because of that person's candidacy.
16. Conditions relating to nomination dates, fees or deposits should be reasonable and not discriminatory. If there are reasonable grounds for regarding certain elective offices as incompatible with tenure of specific positions (e.g. the judiciary, high-ranking military office, public service), measures to avoid any conflicts of interest should not unduly limit the rights protected by paragraph (b). The grounds for the removal of elected office holders should be established by laws based on objective and reasonable criteria and incorporating fair procedures.
17. The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties. If a candidate is required to have a minimum number of supporters for nomination this requirement should be reasonable and not act as a barrier to candidacy. Without prejudice to paragraph (1) of article 5 of the Covenant, political opinion may not be used as a ground to deprive any person of the right to stand for election.
19. In conformity with paragraph (b), elections must be conducted fairly and freely on a periodic basis within a framework of laws guaranteeing the effective exercise of voting rights. Persons entitled to vote must be free to vote for any candidate for election and for or against any proposal submitted to referendum or plebiscite, and free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind. Reasonable limitations on campaign expen-

diture may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party. The results of genuine elections should be respected and implemented.

20. An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant. States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process. Waiver of these rights is incompatible with article 25 of the Covenant. The security of ballot boxes must be guaranteed and votes should be counted in the presence of the candidates or their agents. There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes. Assistance provided to the disabled, blind or illiterate should be independent. Electors should be fully informed of these guarantees.
21. Although the Covenant does not impose any particular electoral system, any system operating in a State party must be compatible with the rights protected by article 25 and must guarantee and give effect to the free expression of the will of the electors. The principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.
25. In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.
26. The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essen-

tial adjunct to the rights protected by article 25. Political parties and membership in parties play a significant role in the conduct of public affairs and the election process. States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights thereunder.

### ***5.1.3 International Convention on the Elimination of Racial Discrimination (ICERD) (1966)<sup>25</sup>***

#### *Article 4*

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

[...]

- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

[...]

#### *Article 5*

States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...]

- (c) Political rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:

[...]

- (viii) The right to freedom of opinion and expression;

- (ix) The right to freedom of peaceful assembly and association;

[...]

#### ***5.1.4 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (1979)<sup>26</sup>***

##### *Article 4*

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

##### *Article 7*

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

#### ***5.1.5 General Recommendation 23 on Political and Public Life (1997)<sup>27</sup>***

5. Article 7 obliges States parties to take all appropriate measures to eliminate discrimination against women in political and public life and to ensure that they enjoy equality with men in political and public life. The obligation specified in article 7 extends to all areas of public and political life and is not limited to those areas specified in subparagraphs (a), (b) and (c). The political and public life of a country is a broad concept. It refers to the exercise of political power, in particular the exercise of legislative, judicial, executive and administrative powers. The term covers all aspects of public administration and the formulation and implementation of policy at the international, national, regional and local levels. The concept also includes many aspects of civil society, including public boards and local councils and the activities of organizations such as political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life.

6. The Convention envisages that, to be effective, this equality must be achieved within the framework of a political system in which each citizen enjoys the right to vote and be elected at genuine periodic elections held on the basis of universal suffrage and by secret ballot, in such a way as to guarantee the free expression of the will of the electorate.
18. The Convention obliges States parties in constitutions or legislation to take appropriate steps to ensure that women, on the basis of equality with men, enjoy the right to vote in all elections and referendums, and to be elected. These rights must be enjoyed both *de jure* and *de facto*.
22. The system of balloting, the distribution of seats in Parliament, the choice of district, all have a significant impact on the proportion of women elected to Parliament. Political parties must embrace the principles of equal opportunity and democracy and endeavour to balance the number of male and female candidates.
23. The enjoyment of the right to vote by women should not be subject to restrictions or conditions that do not apply to men or that have a disproportionate impact on women. For example, limiting the right to vote to persons who have a specified level of education, who possess a minimum property qualification or who are literate is not only unreasonable, it may violate the universal guarantee of human rights. It is also likely to have a disproportionate impact on women, thereby contravening the provisions of the Convention.
28. While States parties generally hold the power to appoint women to senior cabinet and administrative positions, political parties also have a responsibility to ensure that women are included in party lists and nominated for election in areas where they have a likelihood of electoral success.
32. As political parties are an important vehicle in decision-making roles, Governments should encourage political parties to examine the extent to which women are full and equal participants in their activities and, where this is not the case, should identify the reasons for this. Political parties should be encouraged to adopt effective measures, including the provision of information, financial and other resources, to overcome obstacles to women's full participation and representation and ensure that women have an equal opportunity in practice to serve as party officials and to be nominated as candidates for election.

34. Other organizations such as trade unions and political parties have an obligation to demonstrate their commitment to the principle of gender equality in their constitutions, in the application of those rules and in the composition of their memberships with gender-balanced representation on their executive boards so that these bodies may benefit from the full and equal participation of all sectors of society and from contributions made by both sexes.

*Recommendations*

42. States parties are under an obligation to take all appropriate measures, including the enactment of appropriate legislation that complies with their Constitution, to ensure that organizations such as political parties and trade unions, which may not be subject directly to obligations under the Convention, do not discriminate against women and respect the principles contained in articles 7 and 8.
43. States parties should identify and implement temporary special measures to ensure the equal representation of women in all fields covered by articles 7 and 8.
45. Measures that should be identified, implemented and monitored for effectiveness include, under article 7, paragraph (a), those designed to:
- (a) Achieve a balance between women and men holding publicly elected positions;
  - (b) Ensure that women understand their right to vote, the importance of this right and how to exercise it;
  - (c) Ensure that barriers to equality are overcome, including those resulting from illiteracy, language, poverty and impediments to women's freedom of movement;
  - (d) Assist women experiencing such disadvantages to exercise their right to vote and to be elected.
46. Under article 7, paragraph (b), such measures include those designed to ensure:
- (a) Equality of representation of women in the formulation of government policy;
  - (b) Women's enjoyment in practice of the equal right to hold public office;
  - (c) Recruiting processes directed at women that are open and subject to appeal.

47. Under article 7, paragraph (c), such measures include those designed to:
- (a) Ensure that effective legislation is enacted prohibiting discrimination against women;
  - (b) Encourage non-governmental organizations and public and political associations to adopt strategies that encourage women's representation and participation in their work.

#### ***5.1.6 Convention on the Political Rights of Women (CPRW) (1952)<sup>28</sup>***

##### *Article 1*

Women shall be entitled to vote in all elections on equal terms with men, without any discrimination.

##### *Article 2*

Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination.

##### *Article 3*

Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination.

#### ***5.1.7 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC) (1990)<sup>29</sup>***

##### *Article 41*

1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.
2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

##### *Article 42*

1. States Parties shall consider the establishment of procedures or institutions through which account may be taken, both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to have their freely chosen representatives in those institutions.
2. States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of

their families in decisions concerning the life and administration of local communities.

3. Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

#### ***5.1.8. Convention on the Rights of Persons with Disabilities (CRPD) (2006)*<sup>30</sup>**

##### *Article 21 Freedom of expression and opinion, and access to information*

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- (a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- (e) Recognizing and promoting the use of sign languages.

##### *Article 29 Participation in political and public life*

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake:

- (a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, *inter alia*, by:
  - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
  - (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions

- at all levels of government, facilitating the use of assistive and new technologies where appropriate;
- (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- (b) To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
- (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
  - (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

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23. Entry into force 23 March 1976.

24. The Human Rights Committee issues General Comments in order to announce its interpretations of different provisions of the Covenant. These are relied upon by the Committee in evaluating the compliance of states with their obligations under the Covenant.

25. Entry into force 4 January 1976.

26. Entry into force 3 September 1981.

27. Issued by the Committee Established to Monitor States' Compliance with the Commitments of CEDAW.

28. Entry into force 7 July 1954.

29. Not yet in force.

30. Not yet in force (situation at the end of June 2007). It was opened for signatures and ratifications as of 30 March 2007. The Matrix below shows that the treaty immediately – during the three first months – received many signatures. Please check the UN Treaty Collection database at <http://untreaty.un.org/> for the current status of signatures and ratifications.

## 5.2. Matrix on the Status of Ratification of Instruments within the UN System<sup>31</sup>

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Afghanistan	•	•	•	•		S <sup>32</sup>
Albania	•	•	•	•	•	S <sup>33</sup>
Algeria	•	•	•	•	•	
Andorra		•	•			
Angola	•		•	•		
Antigua and Barbuda		•	•	•		S <sup>34</sup>
Argentina	•	•	•	•	•	S <sup>35</sup>
Armenia	•	•	•			S <sup>36</sup>
Australia	•	•	•	•		S <sup>37</sup>
Austria	•	•	•	•		S <sup>38</sup>
Azerbaijan	•	•	•		•	
Bahamas		•	•	•		
Bahrain	•	•	•			
Bangladesh	•	•	•	• <sup>39</sup>	S <sup>40</sup>	S <sup>41</sup>

31. For up-dated information concerning ratification and signature status of the instruments mentioned in this matrix, please check the UN Treaty Collection database at <http://untreaty.un.org/>.

32. Signed 30 March 2007.

33. Signed 27 April 2007.

34. Signed 30 March 2007.

35. Signed 30 March 2007.

36. Signed 30 March 2007.

37. Signed 30 March 2007.

38. Signed 30 March 2007.

39. Ratified with the following reservation: “The Government of the People’s Republic of Bangladesh will apply article III of the Convention in consonance with the relevant provisions of the Constitution of Bangladesh and in particular, article 28 (4) allowing special provision in favour of women; article 29.3 (c) allowing reservation of any class of employment or office for one sex on the ground that it is considered by its nature to be unsuited to members of the opposite sex; and article 65 (3) providing for reservation of 30 seats in the National Assembly for women in addition to the provision allowing women to be elected to any and all of the 300 seats.”

40. Signed 7 October 1998.

41. Signed 9 May 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Barbados	•	•	•	•		
Belarus	•	•	•	•		
Belgium	•	•	•	•		S <sup>42</sup>
Belize	•	•	•		•	
Benin	•	•	•		S <sup>43</sup>	
Bhutan		S <sup>44</sup>	•			
Bolivia	•	•	•	•	•	
Bosnia and Herzegovina	•	•	•	•	•	
Botswana	•	•	•			
Brazil	•	•	•	•		S <sup>45</sup>
Brunei Darussalam			•			
Bulgaria	•	•	•	•		
Burkina Faso	•	•	•	•	•	S <sup>46</sup>
Burundi	•	•	•	•		S <sup>47</sup>
Cambodia	•	•	•	S <sup>48</sup>	S <sup>49</sup>	
Cameroon	•	•	•			
Canada	•	•	•	•		S <sup>50</sup>
Cape Verde	•	•	•		•	S <sup>51</sup>
Central African Republic	•	•	•	•		S <sup>52</sup>
Chad	•	•	•			S <sup>53</sup>
Chile	•	•	•	•	•	

42. Signed 30 March 2007.

43. Signed 15 September 2005.

44. Signed 26 March 1973.

45. Signed 30 March 2007.

46. Signed 23 May 2007.

47. Signed 26 April 2007.

48. Signed 11 Nov 2001.

49. Signed 27 September 2004.

50. Signed 30 March 2007.

51. Signed 30 March 2007.

52. Signed 9 May 2007.

53. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
China	S <sup>54</sup>	•	•			S <sup>55</sup>
Colombia	•	•	•	•	•	S <sup>56</sup>
Comoros		•	•		S <sup>57</sup>	
Congo	•	•	•	•		S <sup>58</sup>
Cook Islands			•			
Costa Rica	•	•	•	•		S <sup>59</sup>
Côte d'Ivoire	•	•	•	•		S <sup>60</sup>
Croatia	•	•	•	•		S <sup>61</sup>
Cuba		•	•	•		S <sup>62</sup>
Cyprus	•	•	•	•		S <sup>63</sup>
Czech Republic	•	•	•	•		S <sup>64</sup>
Democratic People's Republic of Korea	• <sup>65</sup>		•			
Democratic Republic of the Congo	•	•	•	•		
Denmark	•	•	•	•		S <sup>66</sup>
Djibouti	•	S <sup>67</sup>	•			
Dominica	•		•			S <sup>68</sup>

54. Signed 5 October 1998.

55. Signed 30 March 2007.

56. Signed 30 March 2007.

57. Signed 22 September 2000.

58. Signed 30 March 2007.

59. Signed 30 March 2007.

60. Signed 7 June 2007.

61. Signed 30 March 2007.

62. Signed 26 April 2007.

63. Signed 30 March 2007.

64. Signed 30 March 2007.

65. The government ratified ICCPR in December 1981 but then submitted a notification of withdrawal in September 1997. The Secretary-General expressed his opinion that withdrawal from the Covenant would not appear possible unless all States Parties to the Covenant agree with such a withdrawal.

66. Signed 30 March 2007.

67. Signed 14 June 2006.

68. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Dominican Republic	•	•	•	•		S <sup>69</sup>
Ecuador	•	•	•	•	•	S <sup>70</sup>
Egypt	•	•	•	•	•	S <sup>71</sup>
El Salvador	•	•	•	S <sup>72</sup>	•	S <sup>73</sup>
Equatorial Guinea	•	•	•			
Eritrea	•	•	•			
Estonia	•	•	•			
Ethiopia	•	•	•	•		S <sup>74</sup>
European Community						S <sup>75</sup>
Fiji		• <sup>76</sup>	•	•		
Finland	•	•	•	•		S <sup>77</sup>
France	•	•	•	•		S <sup>78</sup>
Gabon	•	•	•	•	S <sup>79</sup>	S <sup>80</sup>
Gambia	•	•	•			
Georgia	•	•	•	•		
Germany	•	•	•	•		S <sup>81</sup>
Ghana	•	•	•	•	•	S <sup>82</sup>

69. Signed 30 March 2007.

70. Signed 30 March 2007.

71. Signed 4 April 2007.

72. Signed 24 Jun 1953.

73. Signed 30 March 2007.

74. Signed 30 March 2007.

75. Signed 30 March 2007.

76. Ratified with the following reservation: “To the extent, if any law relating to elections in Fiji may not fulfil the obligations referred to in article 5(c) [...] the Government of Fiji reserves the right not to implement the aforementioned provisions of the Convention.”

77. Signed 30 March 2007.

78. Signed 30 March 2007.

79. Signed 15 December 2004.

80. Signed 30 March 2007.

81. Signed 30 March 2007.

82. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Greece	•	•	•	•		S <sup>83</sup>
Grenada	•	S <sup>84</sup>	•			
Guatemala	•	•	•	• <sup>85</sup>	•	S <sup>86</sup>
Guinea	•	•	•	•	•	S <sup>87</sup>
Guinea-Bissau	S <sup>88</sup>	S <sup>89</sup>	•		S <sup>90</sup>	
Guyana	•	•	•		S <sup>91</sup>	S <sup>92</sup>
Haiti	•	•	•	•		
Holy See		•				
Honduras	•	•	•		•	S <sup>93</sup>
Hungary	•	•	•	•		S <sup>94</sup>
Iceland	•	•	•	•		S <sup>95</sup>
India	•	•	•	•		S <sup>96</sup>
Indonesia	•	•	•	•	S <sup>97</sup>	S <sup>98</sup>
Iran (Islamic Republic of)	•	•				
Iraq	•	•	•			

83. Signed 30 March 2007.

84. Signed 17 December 1981.

85. Ratified with the following reservation: Articles I, II and III shall apply only to female citizens of Guatemala in accordance with the provisions of article 16, paragraph 2 of the Constitution of the Republic.

86. Signed 30 March 2007.

87. Signed 16 May 2007.

88. Signed 12 September 2000.

89. Signed 12 September 2000.

90. Signed 12 September 2000.

91. Signed 15 September 2005.

92. Signed 11 April 2007.

93. Signed 30 March 2007.

94. Signed 30 March 2007.

95. Signed 30 March 2007.

96. Signed 30 March 2007.

97. Signed 22 September 2004.

98. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Ireland	•	• <sup>99</sup>	•	•		S <sup>100</sup>
Israel	•	•	•	•		S <sup>101</sup>
Italy	•	•	•	•		S <sup>102</sup>
Jamaica	•	•	•	•		•
Japan	•	• <sup>103</sup>	•	•		
Jordan	•	•	•	•		S <sup>104</sup>
Kazakhstan	•	•	•	•		
Kenya	•	•	•			S <sup>105</sup>
Kiribati			•			

99. Ratified with the following reservation: “Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination provides that the measures specifically described in sub-paragraphs (a), (b) and (c) shall be undertaken with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in Article 5 of the Convention. Ireland therefore considers that through such measures, the right to freedom of opinion and expression and the right to peaceful assembly and association may not be jeopardised. These rights are laid down in Articles 19 and 20 of the Universal Declaration of Human Rights; they were reaffirmed by the General Assembly of the United Nations when it adopted Articles 19 and 21 of the International Covenant on Civil and Political Rights and are referred to in Article 5 (d)(viii) and (ix) of the present Convention.”

100. Signed 30 March 2007.

101. Signed 30 March 2007.

102. Signed 30 March 2007.

103. Ratified with the following reservation: “In applying the provisions of paragraphs (a) and (b) of article 4 of the [said Convention] Japan fulfills the obligations under those provisions to the extent that fulfillment of the obligations is compatible with the guarantee of the rights to freedom of assembly, association and expression and other rights under the Constitution of Japan, noting the phrase ‘with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention’ referred to in article 4.”

104. Signed 30 March 2007.

105. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Kuwait	• <sup>106</sup>	•	•			
Kyrgyzstan	•	•	•	•	•	
Lao People's Democratic Republic	S <sup>107</sup>	•	•	•		
Latvia	•	•	•	•		
Lebanon	•	•	•	•		S <sup>108</sup>
Lesotho	•	•	•	•	•	
Liberia	•	•	•	S <sup>109</sup>	S <sup>110</sup>	S <sup>111</sup>
Libyan Arab Jamahiriya	•	•	•	•	•	
Liechtenstein	•	•	•			
Lithuania	•	•	•			S <sup>112</sup>
Luxembourg	•	•	•	•		S <sup>113</sup>
Madagascar	•	•	•	•		
Malawi	•	•	•	•		
Malaysia			• <sup>114</sup>			

106. Ratified with the following reservation to article 25(b): “The provisions of this paragraph conflict with the Kuwaiti electoral law, which restricts the right to stand and vote in elections to males. It further declares that the provisions of the article shall not apply to members of the armed forces or the police.”

107. Signed 7 December 2000.

108. Signed 14 June 2007.

109. Signed 9 Dec 1953.

110. Signed 22 September 2004.

111. Signed 30 March 2007.

112. Signed 30 March 2007.

113. Signed 30 March 2007.

114. Ratified with the following reservation: “Malaysia’s accession is subject to the understanding that the provisions of the Convention do not conflict with the provisions of the Islamic Sharia’ law and the Federal Constitution of Malaysia. With regards thereto, further, the Government of Malaysia does not consider itself bound by the provisions of articles [...] 7 (b) [...]”

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Maldives	•	•	• <sup>115</sup>			
Mali	•	•	•	•	•	S <sup>116</sup>
Malta	•	•	•	•		S <sup>117</sup>
Marshall Islands			•			
Mauritania	•	•	• <sup>118</sup>	•	•	
Mauritius	•	•	•	•		
Mexico	• <sup>119</sup>	•	•	•	•	S <sup>120</sup>
Micronesia (Federated States of)			•			
Monaco	•	• <sup>121</sup>	•			
Mongolia	•	•	•	•		
Montenegro	•	•	•	•	S <sup>122</sup>	
Morocco	•	•	•	•	•	S <sup>123</sup>

115. Ratified with the following reservation: “The Government of the Republic of Maldives expresses its reservation to article 7 (a) of the Convention, to the extent that the provision contained in the said paragraph conflicts with the provision of article 34 of the Constitution of the Republic of Maldives.”

116. Signed 15 May 2007.

117. Signed 30 March 2007.

118. Ratified with the following reservation: [Government of Mauritania] “have approved and do approve it in each and every one of its parts which are not contrary to Islamic Sharia and are in accordance with our Constitution.”

119. Ratified with the following reservation to article 25(b): “the Government of Mexico [...] makes a reservation to this provision, since article 130 of the Political Constitution of the United Mexican States provides that ministers of religion shall have neither an active nor a passive vote, nor the right to form associations for political purposes.”

120. Signed 30 March 2007.

121. Ratified with the following reservation: “Monaco interprets the reference in that article to the principles of the Universal Declaration of Human Rights, and to the rights enumerated in article 5 of the Convention as releasing States Parties from the obligation to promulgate repressive laws which are incompatible with freedom of opinion and expression and freedom of peaceful assembly and association, which are guaranteed by those instruments.”

122. Signed 23 October 2006.

123. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Mozambique	•	•	•			S <sup>124</sup>
Myanmar			•	S <sup>125</sup>		
Namibia	•	•	•			S <sup>126</sup>
Nauru	S <sup>127</sup>	S <sup>128</sup>				
Nepal	•	•	•	•		
Netherlands	•	•	•	•		S <sup>129</sup>
New Zealand	•	•	•	•		S <sup>130</sup>
Nicaragua	•	•	•	•	• <sup>131</sup>	S <sup>132</sup>
Niger	•	•	•	•		S <sup>133</sup>
Nigeria	•	•	•	•		S <sup>134</sup>
Norway	•	•	•	•		S <sup>135</sup>

124. Signed 30 March 2007.

125. Signed 14 September 1954.

126. Signed 25 April 2007.

127. Signed 12 November 2001.

128. Signed 12 November 2001.

129. Signed 30 March 2007.

130. Signed 30 March 2007.

131. Ratified with the following reservation: “The Republic of Nicaragua, in the exercise of its sovereignty, does not allow foreigners to enjoy political rights; this is embodied in articles 27 and 182 of the Constitution. Article 91 of the Convention establishes the possibility of formulating reservations at the time of signature, ratification or accession. Consequently, by virtue of the provisions of article 42, paragraph 3, of this Convention, the Republic of Nicaragua will not grant political rights to migratory workers owing to the express prohibition contained in article 27, paragraph 2, of its Constitution, which states: ‘Foreigners have the same rights and obligations as Nicaraguans, with the exception of political rights and others established by law; they may not intervene in the political affairs of the country.’ The Republic of Nicaragua considers that this reservation is not incompatible with the object and purpose of the Convention.”

132. Signed 30 March 2007.

133. Signed 30 March 2007.

134. Signed 30 March 2007.

135. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Oman		•	• <sup>136</sup>			
Pakistan		•	• <sup>137</sup>	•		
Palau						
Panama	•	•	•			S <sup>138</sup>
Papua New Guinea		• <sup>139</sup>	•	•		
Paraguay	•	•	•	•	S <sup>140</sup>	S <sup>141</sup>
Peru	•	•	•	•	•	S <sup>142</sup>
Philippines	•	•	•	•	•	
Poland	•	•	•	•		S <sup>143</sup>
Portugal	•	•	•			S <sup>144</sup>
Qatar		•				
Republic of Korea	•	•	•	•		S <sup>145</sup>
Republic of Moldova	•	•	•	•		S <sup>146</sup>
Romania	•	•	•	•		

136. Ratified with the following reservation: “All provisions of the Convention not in accordance with the provisions of the Islamic Sharia and legislation in force in the Sultanate of Oman.”

137. Ratified with the following reservation: “The accession by [the] Government of the Islamic Republic of Pakistan to the [said Convention] is subject to the provisions of the Constitution of the Islamic Republic of Pakistan.”

138. Signed 30 March 2007.

139. Ratified with the following reservation: “The Government of Papua New Guinea interprets article 4 of the Convention as requiring a party to the Convention to adopt further legislative measures in the areas covered by sub-paragraphs (a), (b) and (c) of that article only in so far as it may consider with due regard to the principles contained in the Universal Declaration set out in Article 5 of the Convention that some legislative addition to, or variation of existing law and practice, is necessary to give effect to the provisions of article 4. [...]”

140. Signed 13 September 2000.

141. Signed 30 March 2007.

142. Signed 30 March 2007.

143. Signed 30 March 2007.

144. Signed 30 March 2007.

145. Signed 30 March 2007.

146. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Russian Federation	•	•	•	•		
Rwanda	•	•	•	•		
Saint Kitts and Nevis		•	•			
Saint Lucia		•	•			
Saint Vincent and the Grenadines	•	•	•	•		
Samoa			•			
San Marino	•	•	•			S <sup>147</sup>
Sao Tome and Principe	S <sup>148</sup>	S <sup>149</sup>	•		S <sup>150</sup>	
Saudi Arabia		• <sup>151</sup>	• <sup>152</sup>			
Senegal	•	•	•	•	•	S <sup>153</sup>
Serbia	•	•	•	•	S <sup>154</sup>	
Seychelles	•	•	•		•	S <sup>155</sup>
Sierra Leone	•	•	•	•	S <sup>156</sup>	S <sup>157</sup>
Singapore			•			
Slovakia	•	•	•	•		
Slovenia	•	•	•	•		S <sup>158</sup>
Solomon Islands		•	•	•		
Somalia	•	•				

147. Signed 30 March 2007.

148. Signed 31 October 1995.

149. Signed 6 September 2000.

150. Signed 6 September 2000.

151. Ratified with the following reservation: “[The Government of Saudi Arabia declares that it will] implement the provisions [of the above Convention], providing these do not conflict with the precepts of the Islamic *Shariah*.”

152. Ratified with the following reservation: “In case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention.”

153. Signed 25 April 2007.

154. Signed 11 November 2004.

155. Signed 30 March 2007.

156. Signed 15 September 2000.

157. Signed 30 March 2007.

158. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
South Africa	•	•	•	S <sup>159</sup>		S <sup>160</sup>
Spain	•	•	•	•		S <sup>161</sup>
Sri Lanka	•	•	•		•	S <sup>162</sup>
Sudan	•	•				S <sup>163</sup>
Suriname	•	•	•			S <sup>164</sup>
Swaziland	•	•	•	• <sup>165</sup>		
Sweden	•	•	•	•		S <sup>166</sup>
Switzerland	• <sup>167</sup>	• <sup>168</sup>	•			
Syrian Arab Republic	•	•	•		•	S <sup>169</sup>
Tajikistan	•	•	•	•	•	

159. Signed 29 Jan 1993.

160. Signed 30 March 2007.

161. Signed 30 March 2007.

162. Signed 30 March 2007.

163. Signed 30 March 2007.

164. Signed 30 March 2007.

165. Ratified with following reservation: “The Convention shall have no application to matters which are regulated by Swaziland Law and Custom in accordance with Section 62 (2) of the Constitution of the Kingdom of Swaziland. [(a) The office of Nggwenyama; (b) the office of Ndlovukazi (the Queen Mother); (c) the authorization of a person to perform the functions of Regent for the purposes of section 30 of this Constitution; (d) the appointment, revocation of appointment and suspension of Chiefs; (e) the composition of the Swazi National Council, the appointment and revocation of appointment of members of the Council, and the procedure of the Council; (f) the Ncwala Ceremony; (g) the Libutfo (regimental) system.”

166. Signed 30 March 2007.

167. Ratified with the following reservation to article 25(b): “The present provision shall be applied without prejudice to the cantonal and communal laws, which provide for or permit elections within assemblies to be held by a means other than secret ballot.”

168. Ratified with the following reservation: “Switzerland reserves the right to take the legislative measures necessary for the implementation of article 4, taking due account of freedom of opinion and freedom of association, provided for *inter alia* in the Universal Declaration of Human Rights.”

169. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
Thailand	•	• <sup>170</sup>	•	•		S <sup>171</sup>
The Former Yugoslav Republic of Macedonia	•	•	•	•		S <sup>172</sup>
Timor-Leste	•	•	•		•	
Togo	•	•	•		S <sup>173</sup>	
Tonga		•				
Trinidad and Tobago	•	•	•	•		
Tunisia	•	•	• <sup>174</sup>	•		S <sup>175</sup>
Turkey	•	•	•	•	•	S <sup>176</sup>
Turkmenistan	•	•	•	•		
Tuvalu			•			
Uganda	•	•	•	•	•	S <sup>177</sup>
Ukraine	•	•	•	•		
United Arab Emirates		•	•			

170. Ratified with the following reservation: “1. The Kingdom of Thailand interprets Article 4 of the Convention as requiring a party to the Convention to adopt measures in the fields covered by subparagraphs (a), (b) and (c) of that article only where it is considered that the need arises to enact such legislation.”

171. Signed 30 March 2007.

172. Signed 30 March 2007.

173. Signed 15 November 2001.

174. Ratified with the following reservation: “The Tunisian Government declares that it shall not take any organizational or legislative decision in conformity with the requirements of this Convention where such a decision would conflict with the provisions of chapter I of the Tunisian Constitution.”

175. Signed 30 March 2007.

176. Signed 30 March 2007.

177. Signed 30 March 2007.

	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD
United Kingdom of Great Britain and Northern Ireland	•	• <sup>178</sup>	•	• <sup>179</sup>		S <sup>180</sup>
United Republic of Tanzania	•	•	•	•		S <sup>181</sup>
United States of America	•	• <sup>182</sup>	S <sup>183</sup>	•		
Uruguay	•	•	•	S <sup>184</sup>	•	
Uzbekistan	•	•	•	•		
Vanuatu			•			S <sup>185</sup>
Venezuela	•	•	•	•		
Viet Nam	•	•	•			
Yemen	•	•	•	•		S <sup>186</sup>
Zambia	•	•	•	•		
Zimbabwe	•	•	•	•		

178. Ratified with the following reservation: “[...] the United Kingdom wishes to state its understanding of certain articles in the Convention. It interprets article 4 as requiring a party to the Convention to adopt further legislative measures in the fields covered by subparagraphs (a), (b) and (c) of that article only in so far as it may consider with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention (in particular the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association) that some legislative addition to or variation of existing law and practice in those fields is necessary for the attainment of the end specified in the earlier part of article 4. [...]”

179. Ratified with the following reservation to article 3: “in so far as it relates to:”(b) certain offices primarily of a ceremonial nature;”(c) the function of sitting and voting in the House of Lords pertaining to holders of hereditary peerages and holders of certain offices in the Church of England[...].”

180. Signed 30 March 2007.

181. Signed 30 March 2007.

182. Ratified with the following reservation: “[...] (1) That the Constitution and laws of the United States contain extensive protections of individual freedom of speech, expression and association. Accordingly, the United States does not accept any obligation under this Convention, in particular under articles 4 and 7, to restrict those rights, through the adoption of legislation or any other measures, to the extent that they are protected by the Constitution and laws of the United States. [...]”

183. Signed 17 July 1980.

184. Signed 26 May 1953.

185. Signed 17 May 2007.

186. Signed 30 March 2007.

## 5.3 Non-Treaty Standards

### 5.3.1 *Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)*

#### *Article 4*

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

### 5.3.2 *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)*

#### *Article 2*

[...]

2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
4. Persons belonging to minorities have the right to establish and maintain their own associations.

[...]

### 5.3.3 *Declaration on the Elimination of Discrimination against Women (1967)*

#### *Article 4*

All appropriate measures shall be taken to ensure to women on equal terms with men, without any discrimination:

- (a) The right to vote in all elections and be eligible for election to all publicly elected bodies;
- (b) The right to vote in all public referenda;
- (c) The right to hold public office and to exercise all public functions. Such rights shall be guaranteed by legislation.

#### ***5.3.4. Declaration on the Rights of Disabled Persons (1975)***

4. Disabled persons have the same civil and political rights as other human beings.

#### ***5.3.5 Declaration on the Elimination of Racial Discrimination (1966)***

##### *Article 6*

No discrimination by reason of race, colour of ethnic origin shall be admitted in the enjoyment by any person of political and citizenship rights in his country, in particular the right to participate in the elections through universal and equal suffrage and to take part in the government. Everyone has the right of equal access to public service in his country.

#### ***5.3.6 Vienna Declaration of Programme and Action (1993)***

8. Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives. [...] The international community should support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world.
34. Increased efforts should be made to assist countries which so request to create the conditions whereby each individual can enjoy universal human rights and fundamental freedoms. Governments and the United Nations system as well as other multilateral organisations are urged to increase considerably the resources allocated to programmes aiming at the establishment and strengthening of national legislation, national institutions and related infrastructures which uphold the rule of law and democracy, electoral assistance, human rights awareness through training, teaching and education, popular participation and civil society.
67. Special emphasis should be given to measures to assist in the strengthening and building of institutions relating to human rights, strengthening of a pluralistic civil society and the protection of groups which have been rendered vulnerable. In this context, assistance provided upon the request of Governments for the conduct of free and fair elections, including assistance in the human rights aspects of elections and public information about elections, is of particular importance.

### ***5.3.7 General Assembly Resolution A/RES/46/137 (1991) – Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections***

The General Assembly, [...]

3. Stresses its conviction that periodic and genuine elections are a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed and that, as a matter of practical experience, the right of everyone to take part in the government of his or her country is a crucial factor in the effective enjoyment by all of a wide range of other human rights and fundamental freedoms, embracing political, economic, social and cultural rights;
4. Declares that determining the will of the people requires an electoral process that provides an equal opportunity for all citizens to become candidates and put forward their political views, individually and in cooperation with others, as provided in national constitutions and laws;
6. Reaffirms that apartheid must be abolished, that the systematic denial or abridgement of the right to vote on the grounds of race or colour is a gross violation of human rights and an affront to the conscience and dignity of mankind, and that the right to participate in a political system based on common and equal citizenship and universal franchise is essential for the exercise of the principle of periodic and genuine elections;

### ***5.3.8 General Assembly Resolution A/RES/55/96 (2001) – Promoting and Consolidating Democracy***

The General Assembly, [...]

1. Calls upon States to promote and consolidate democracy, inter alia, by:
  - (a) Promoting pluralism, the protection of all human rights and fundamental freedoms, maximizing the participation of individuals in decision-making and the development of effective public institutions, including an independent judiciary, accountable legislature and public service and an electoral system that ensures periodic, free and fair elections;
  - [...]
  - (d) Developing, nurturing and maintaining an electoral system that provides for the free and fair expression of the people's will through genuine and periodic elections, in particular by:
    - (i) Guaranteeing that everyone can exercise his or her right to take part in the government of his or her country, directly or through freely chosen representatives;

- (ii) Guaranteeing the right to vote freely and to be elected in a free and fair process at regular intervals, by universal and equal suffrage, conducted by secret ballot and with full respect for the right to freedom of association;
  - (iii) Taking measures, as appropriate, to address the representation of under-represented segments of society;
  - (iv) Ensuring, through legislation, institutions and mechanisms, the freedom to form democratic political parties that can participate in elections, as well as the transparency and fairness of the electoral process, including through appropriate access under the law to funds and free, independent and pluralistic media;
- [...]

***5.3.9 General Assembly Resolution A/RES/56/154 (2002) – Respect for the Principles of National Sovereignty and Non-Interference in the Internal Affairs of States in Electoral Processes as an Important Element for the Promotion and Protection of Human Rights***

The General Assembly, [...]

2. Reiterates that periodic, fair and free elections are important elements for the promotion and protection of human rights;
3. Reaffirms the right of peoples to determine methods and to establish institutions regarding electoral processes and that, consequently, States should ensure the necessary mechanisms and means to facilitate full and effective popular participation in those processes;
6. Calls upon all States to refrain from financing political parties or other organizations in any other State in a way that is contrary to the principles of the Charter and that undermines the legitimacy of its electoral processes;
8. Reaffirms that the will of the people shall be the basis of the authority of government and that this will shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

## 6. Regional Instruments

### The African Union (AU)

The African Union was launched on 9 July, 2002, to replace the Organisation of African Unity (OAU). It was established with a view to accelerating the process of integration in the continent while addressing social, economic and political problems. Its aims include the promotion of democratic principles and institutions, popular participation and good governance. The AU covers the entire continent except for Morocco, which withdrew from the OAU with effect from November 1985 after the OAU had granted the Territory of Western Sahara full membership in the organisation. Morocco has not applied to re-join the AU. It has, however, a special status within the AU and benefits from the services available to all AU member states from the institutions of the AU, such as the African Development Bank.

The African Charter on Human and Peoples' Rights established the African Commission on Human and Peoples' Rights. It is empowered, among other things, to receive and consider communications submitted by states, individuals and organisations alleging that a State Party has violated one or more of the rights guaranteed by the Charter. A protocol establishing an African Court on Human and Peoples' Rights came into force on 25 January 2004. In January 2006, the first eleven judges of the Court were elected, and in July 2006 the Court held its first meeting. The Court is located in Arusha, Tanzania.

The New Partnership for Africa's Development (NEPAD) is a programme of the African Union designed to be a comprehensive, integrated development plan that addresses key social, economic and political priorities in a coherent and balanced manner. It is aimed at the redevelopment of the African continent through accelerated growth and sustainable development, the eradication of widespread and severe poverty, and the halting of the marginalisation of Africa in the globalisation process.

## 6.1 Treaty standards

### 6.1.1 *African Charter on Human and Peoples' Rights (ACHPR) (1981)*<sup>187</sup>

#### *Article 9*

1. Each individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

#### *Article 10*

1. Each individual shall have the right to free association provided that he abides by the law.

#### *Article 11*

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

#### *Article 13*

1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.
2. Every citizen shall have the right of equal access to the public service of his country.

### 6.1.2 *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (ACHPR – PW) (2003)*<sup>188</sup>

#### *Article 9 Right to Participation in the Political and Decision-Making Process*

1. States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that:
  - a) women participate without any discrimination in all elections;
  - b) women are represented equally at all levels with men in all electoral processes;
  - [...]
2. States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

### 6.1.3 *African Charter on Democracy, Elections and Governance (2007)*<sup>189</sup>

#### Chapter 2: Objectives

##### *Article 2*

The objectives of this Charter are to:

1. Promote adherence, by each State Party, to the universal values and principles of democracy and respect for human rights;
2. Promote and enhance adherence to the principle of the rule of law premised upon the respect for, and the supremacy of, the Constitution and constitutional order in the political arrangements of the State Parties;
3. Promote the holding of regular free and fair elections to institutionalize legitimate authority of representative government as well as democratic change of governments;
4. Prohibit, reject and condemn unconstitutional change of government in any Member State as a serious threat to stability, peace, security and development;
5. Promote and protect the independence of the judiciary;
6. Nurture, support and consolidate good governance by promoting democratic culture and practice, building and strengthening governance institutions and inculcating political pluralism and tolerance;
7. Encourage effective coordination and harmonization of governance policies amongst State Parties with the aim of promoting regional and continental integration;
8. Promote State Parties' sustainable development and human security;
9. Promote the fight against corruption in conformity with the provisions of the AU Convention on Preventing and Combating Corruption adopted in Maputo, Mozambique in July 2003;
10. Promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs;
11. Promote gender balance and equality in the governance and development processes;
12. Enhance cooperation between the Union, Regional Economic Communities and the International Community on democracy, elections and governance; and
13. Promote best practices in the management of elections for purposes of political stability and good governance.

## Chapter 3: Principles

### *Article 3*

State Parties shall implement this Charter in accordance with the following principles:

1. Respect for human rights and democratic principles;
2. Access to and exercise of state power in accordance with the constitution of the State Party and the principle of the rule of law;
3. Promotion of a system of government that is representative;
4. Holding of regular, transparent, free and fair elections;
5. Separation of powers;
6. Promotion of gender equality in public and private institutions;
7. Effective participation of citizens in democratic and development processes and in governance of public affairs;
8. Transparency and fairness in the management of public affairs;
9. Condemnation and rejection of acts of corruption, related offenses and impunity;
10. Condemnation and total rejection of unconstitutional changes of government;
11. Strengthening political pluralism and recognising the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law.

## Chapter 4: Democracy, Rule of Law and Human Rights

### *Article 4*

1. State Parties shall commit themselves to promote democracy, the principle of the rule of law and human rights.
2. State Parties shall recognize popular participation through universal suffrage as the inalienable right of the people.

### *Article 5*

State Parties shall take all appropriate measures to ensure constitutional rule, particularly constitutional transfer of power.

*Article 8*

1. State Parties shall eliminate all forms of discrimination, especially those based on political opinion, gender, ethnic, religious and racial grounds as well as any other form of intolerance.
2. State Parties shall adopt legislative and administrative measures to guarantee the rights of women, ethnic minorities, migrants, people with disabilities, refugees and displaced persons and other marginalized and vulnerable social groups.
3. State Parties shall respect ethnic, cultural and religious diversity, which contributes to strengthening democracy and citizen participation.

## Chapter 6: Democratic Institutions

*Article 14*

1. State Parties shall strengthen and institutionalize constitutional civilian control over the armed and security forces to ensure the consolidation of democracy and constitutional order.
2. State Parties shall take legislative and regulatory measures to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law.
3. State Parties shall cooperate with each other to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law.

## Chapter 7: Democratic Elections

*Article 17*

State Parties re-affirm their commitment to regularly holding transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa:

To this end, State Parties shall:

1. Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections.
2. Establish and strengthen national mechanisms that redress election-related disputes in a timely manner.
3. Ensure fair and equitable access by contesting parties and candidates to state controlled media during elections.

4. Ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them in through exclusively legal channels.

## Chapter 8: Sanctions in Cases of Unconstitutional Changes of Government

### *Article 23*

State Parties agree that the use of, inter alia, the following illegal means of accessing or maintaining power constitute an unconstitutional change of government and shall draw appropriate sanctions by the Union:

1. Any putsch or *coup d'Etat* against a democratically elected government.
2. Any intervention by mercenaries to replace a democratically elected government.
3. Any replacement of a democratically elected government by armed dissidents or rebels.
4. Any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair and regular elections; or
5. Any amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democratic change of government.

## Chapter 9: Political, Economic and Social Governance

### *Article 29*

1. State Parties shall recognize the crucial role of women in development and strengthening of democracy.
2. State Parties shall create the necessary conditions for full and active participation of women in the decision-making processes and structures at all levels as a fundamental element in the promotion and exercise of a democratic culture.
3. State Parties shall take all possible measures to encourage the full and active participation of women in the electoral process and ensure gender parity in representation at all levels, including legislatures.

### *Article 32*

State Parties shall strive to institutionalize good political governance through:

1. Accountable, efficient and effective public administration;
2. Strengthening the functioning and effectiveness of parliaments;
3. An independent judiciary;
4. Relevant reforms of public institutions including the security sector;
5. Harmonious relationships in society including civil-military relations;

6. Consolidating sustainable multiparty political systems;
7. Organising regular, free and fair elections; and
8. Entrenching and respecting the principle of the rule of law.

*Article 34*

State Parties shall decentralize power to democratically elected local authorities as provided in national laws.

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187. Entry into force 21 October 1986.  
188. Entry into force 25 November 2005.  
189. Not yet in force.

## 6.2 Matrix on the Status of Ratification of Instruments within the African Union<sup>190</sup>

	ACHPR	ACHPR – PW
Algeria	•	s <sup>191</sup>
Angola	•	s <sup>192</sup>
Benin	•	•
Botswana	•	
Burkina Faso	•	•
Burundi	•	s <sup>193</sup>
Cameroon	•	s <sup>194</sup>
Cape Verde	•	•
Central African Republic	•	
Chad	•	s <sup>195</sup>
Comoros	•	•
Congo	•	s <sup>196</sup>
Côte d'Ivoire	•	s <sup>197</sup>
Democratic Republic of the Congo	•	s <sup>198</sup>
Djibouti	•	•
Egypt	•	

190. For up-dated information concerning ratification and signature status of the instruments mentioned in this matrix, please check the database of the African Union at <http://www.africa-union.org/root/au/Documents/Treaties/treaties.htm>. The African Charter on Democracy, Elections and Governance, concluded in January 2007, is omitted from the matrix, because by the end of May 2007, it had been signed only by Guinea and Namibia, and no states had so far ratified the Charter. The entering into force of this Charter is therefore still unclear.

191. Signed 29 December 2003.

192. Signed 22 January 2007.

193. Signed 3 December 2003.

194. Signed 25 July 2006.

195. Signed 6 December 2004.

196. Signed 27 February 2004.

197. Signed 27 February 2004.

198. Signed 5 December 2003.

	ACHPR	ACHPR – PW
Equatorial Guinea	•	s <sup>199</sup>
Eritrea	•	
Ethiopia	•	s <sup>200</sup>
Gabon	•	s <sup>201</sup>
Gambia	•	•
Ghana	•	s <sup>202</sup>
Guinea	•	s <sup>203</sup>
Guinea-Bissau	•	s <sup>204</sup>
Kenya	•	s <sup>205</sup>
Lesotho	•	•
Liberia	•	s <sup>206</sup>
Libyan Arab Jamahiriya	•	•
Madagascar	•	s <sup>207</sup>
Malawi	•	•
Mali	•	•
Mauritania	•	•
Mauritius	•	s <sup>208</sup>
Morocco		
Mozambique	•	•
Namibia	•	•

199. Signed 30 November 2005.

200. Signed 1 June 2004.

201. Signed 27 January 2005.

202. Signed 31 October 2003.

203. Signed 16 December 2003.

204. Signed 8 March 2005.

205. Signed 17 December 2003.

206. Signed 16 December 2003.

207. Signed 28 February 2004.

208. Signed 29 January 2005.

	ACHPR	ACHPR – PW
Niger	•	s <sup>209</sup>
Nigeria	•	•
Rwanda	•	•
Sao Tome and Principe	•	
Senegal	•	•
Seychelles	•	•
Sierra Leone	•	s <sup>210</sup>
Somalia	•	s <sup>211</sup>
South Africa	•	•
Sudan	•	
Swaziland	•	s <sup>212</sup>
Territory of Western Sahara	•	s <sup>213</sup>
Togo	•	•
Tunisia	•	
Uganda	•	s <sup>214</sup>
United Republic of Tanzania	•	•
Zambia	•	•
Zimbabwe	•	s <sup>215</sup>

209. Signed 6 July 2004.

210. Signed 9 December 2003.

211. Signed 23 February 2006.

212. Signed 7 December 2004.

213. Signed 20 June 2006.

214. Signed 18 December 2003.

215. Signed 18 November 2003.

## 6.3 Non-Treaty Standards

### 6.3.1 *The New Partnership for Africa's Development (NEPAD) Declaration on Democracy, Political, Economic and Corporate Governance signed by Heads of State and Government of the Member States of the African Union (2002)*

7. At the beginning of the new century and millennium, we reaffirm our commitment to the promotion of democracy and its core values in our respective countries. In particular, we undertake to work with renewed determination to enforce
- [...]
- individual and collective freedoms, including the right to form and join political parties and trade unions, in conformity with the constitution;
- [...]
- the inalienable right of the individual to participate by means of free, credible and democratic political processes in periodically electing their leaders for a fixed term of office;
- [...]
11. In Africa's efforts at democracy, good governance and economic reconstruction, women have a central role to play. We accept it as a binding obligation to ensure that women have every opportunity to contribute on terms of full equality to political and socio-economic development in all our countries.

To fulfil these commitments we have agreed to adopt the following action plan:

13. In support of democracy and the democratic process
- We will:
- ensure that our respective national constitutions reflect the democratic ethos and provide for demonstrably accountable governance;
  - promote political representation, thus providing for all citizens to participate in the political process in a free and fair political environment;
  - enforce strict adherence to the position of the African Union (AU) on unconstitutional changes of government and other decisions of our continental organization aimed at promoting democracy, good governance, peace and security;
  - strengthen and, where necessary, establish an appropriate electoral administration and oversight bodies, in our respective countries and provide the

necessary resources and capacity to conduct elections which are free, fair and credible;

- reassess and where necessary strengthen the AU and sub-regional election monitoring mechanisms and procedures;
- [...]

15. To promote and protect human rights

We have agreed to:

- ensure responsible free expression, inclusive of the freedom of the press.
- [...]

### ***6.3.2 OAU/AU Declaration on the Principles Governing Democratic Elections in Africa (2002)***

#### **I. Preamble**

We, the Heads of State and Government of the Organization of African Unity, meeting in Durban, South Africa, at the 38th Ordinary Session of the Assembly of the OAU, have considered the Report of the Secretary General on strengthening the role of the OAU in election observation and monitoring and the advancement of the democratization process.

Considering the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union, particularly in its Articles 3 and 4;

Reaffirming the Algiers Decision of July 1999 and the Lomé Declaration of July 2000 on the Framework for an OAU response to unconstitutional changes of government, which laid down a set of common values and principles for democratic governance;

Considering the CSSDCA Solemn Declaration adopted by the Assembly of Heads of State and Government of the OAU in Lomé, Togo, in July 2000, which underpins the OAU's agenda of promoting democracy and democratic institutions in Africa;

Considering the New African Initiative (NAI) now referred to as the New Partnership for the African's Development (NEPAD) adopted by the Assembly of the Heads of State and Government in Lusaka, Zambia, in July 2001, by which, through the Democracy and Political Governance Initiative, African Leaders undertook to promote and protect democracy and human rights in their respective countries and regions, by developing clear standards of accountability and participatory governance at the national and sub-regional levels;

Reaffirming the importance of the Universal Declaration of Human Rights adopted in December 1948, as well as the International Covenant on Civil and

Political Rights adopted in December 1966, which recognized the will of the people expressed through free and fair elections as the basis of the authority of government;

Reaffirming also the significance of the African Charter on Human and Peoples' Rights adopted in Nairobi, Kenya, in June 1981, which recognized the right of every citizen to participate freely in the government of his or her country whether directly or through democratically elected representatives;

Recalling the Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the Political and Socio-economic Situation in Africa and the Fundamental Changes Taking Place in the World, adopted in Addis Ababa, Ethiopia, in July 1990 wherein OAU Member States undertook to continue with the democratization of African societies and the consolidation of the democratic institutions;

Recalling further the African Charter for Popular Participation in Development adopted in Addis Ababa, Ethiopia, in July 1990, which emphasized the need to involve the people of Africa in the spheres of economic and political governance;

Referring to the Cairo Agenda for Action adopted in Cairo, Egypt, in 1995, which stressed the imperative of ensuring good governance through popular participation based on the respect for human rights and dignity, free and fair elections, as well as on the respect of the principles of freedom of the press, speech, association and conscience;

Cognizant of the fact that each Member State has the sovereign right to choose its political system in accordance with the will of its people and in conformity with the Constitutive Act of the African Union and the universally accepted principles of democracy;

Considering the ever-growing role already played by the OAU in the observation/monitoring of elections and the need to strengthen the Organization's efforts in advancing democracy in Africa;

Agree and endorse the following Principles Governing Democratic Elections in Africa:

## II. Principles of Democratic Elections

1. Democratic elections are the basis of the authority of any representative government;
2. Regular elections constitute a key element of the democratization process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development;

3. The holding of democratic elections is an important dimension in conflict prevention, management and resolution;
4. Democratic elections should be conducted:
  - a) freely and fairly;
  - b) under democratic constitutions and in compliance with supportive legal instruments;
  - c) under a system of separation of powers that ensures in particular, the independence of the judiciary;
  - d) at regular intervals, as provided for in National Constitutions;
  - e) by impartial, all-inclusive competent accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics;

### III. Responsibilities of the Member States

We commit our Governments to:

- a) take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of our respective countries;
- b) establish where none exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters, compilation of voters' registers, etc would be addressed;
- c) establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- d) safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes;
- e) promote civic and voters' education on the democratic principles and values in close cooperation with the civil society groups and other relevant stakeholders;
- f) take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices throughout the whole electoral process, in order to maintain peace and security;
- g) ensure the availability of adequate logistics and resources for carrying out democratic elections, as well as ensure that adequate provision of funding for all registered political parties to enable them organise their work, including participation in electoral process.;
- h) ensure that adequate security is provided to all parties participating in elections;
- i) ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candi-

- dates at polling and counting stations and by accrediting national and/other observers/monitors;
- j) encourage the participation of African women in all aspects of the electoral process in accordance with the national laws.

#### IV. Elections: Rights and Obligations

1. We reaffirm the following rights and obligations under which democratic elections are conducted:
2. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law.
3. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according to the laws of the country and as guaranteed by the Constitution, without any kind of discrimination.
4. Every citizen shall have the right to free association and assembly in accordance with the law.
5. Every citizen shall have the freedom to establish or to be a member of a political party or Organization in accordance with the law.
6. Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions with full access to the media and information within the limits of the laws of the land.
7. Individual or political parties shall have the right to appeal and to obtain timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country.
8. Candidates or political parties shall have the right to be represented at polling and counting stations by duly designated agents or representatives.
9. No individual or political party shall engage in any act that may lead to violence or deprive others of their constitutional rights and freedoms. Hence all stakeholders should refrain from, among others, using abusive language and/or incitement to hate or defamatory allegations and provocative language. These acts should be sanctioned by designated electoral authorities.
10. All stakeholders in electoral contests shall publicly renounce the practice of granting favours, to the voting public for the purpose of influencing the outcome of elections.
11. In covering the electoral process, the media should maintain impartiality and refrain from broadcasting and publishing abusive language, incitement to hate, and other forms of provocative language that may lead to violence.
12. Every candidate and political party shall respect the impartiality of the public media by undertaking to refrain from any act which might constrain or limit

their electoral adversaries from using the facilities and resources of the public media to air their campaign messages.

13. Every individual and political party participating in elections shall recognize the authority of the Electoral Commission or any statutory body empowered to oversee the electoral process and accordingly render full cooperation to such a Commission/Body in order to facilitate their duties.
14. Every citizen and political party shall accept the results of elections proclaimed to have been free and fair by the competent national bodies as provided for in the Constitution and the electoral laws and accordingly respect the final decision of the competent Electoral Authorities or, challenge the result appropriately according to the law.

## The Economic Community of West African States (ECOWAS)

The Economic Community of West African States (ECOWAS) was established in May 1975 to promote trade, co-operation and self-reliance in West Africa. A revised ECOWAS treaty, designed to accelerate economic integration and to increase political co-operation, was signed in July 1993. The revised treaty designates the achievement of a common market and a single currency as economic objectives, while in the political sphere it envisages the establishment of a West African parliament, an economic and social council and an ECOWAS court of justice to enforce Community decisions. Within its regional security framework, the ECOWAS Member States signed in 2001 a Protocol on Democracy and Good Governance, supplementary to the protocol that established in 1999 the Mechanism for Conflict Prevention, Management and Resolution, Peacekeeping and Security. The supplementary protocol is considered as a tool which takes into account the deep-rooted political causes of conflict, instability and insecurity.

### 6.4 Treaty Standards

#### *6.4.1 Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (2001)*

##### *Article 1*

The following shall be declared as constitutional principles shared by all Member States:

[...].

- b) Every accession to power must be made through free, fair and transparent elections.
- c) Zero tolerance for power obtained or maintained by unconstitutional means.
- d) Popular participation in decision-making, strict adherence to democratic principles and decentralization of power at all levels of governance.
- e) The armed forces must be apolitical and must be under the command of a legally constituted political authority; no serving member of the armed forces may seek to run for elective political.

[...]

- h) The rights set out in the African Charter on Human and Peoples' Rights and other international instruments shall be guaranteed in each of the ECOWAS Member States.
  - i) Political parties shall be formed and shall have the right to carry out their activities freely, within the limits of the law. Their formation and activities shall not be based on ethnic, religious, regional or racial considerations. They shall participate freely and without hindrance or discrimination in any electoral process. The freedom of the opposition shall be guaranteed. Each Member State may adopt a system for financing political parties, in accordance with criteria set under the law.
  - j) The freedom of association and the right to meet and organize peaceful demonstrations shall also be guaranteed.
  - k) The freedom of the press shall be guaranteed.
- [...]

#### *Article 2*

1. No substantial modification shall be made to the electoral laws in the last six (6) months before the elections, except with the consent of a majority of Political actors.
2. All the elections shall be organized on the dates or at periods fixed by the Constitution or the electoral laws.
3. Member States shall take all appropriate measures to ensure that women have equal rights with men to vote and be voted for in elections, to participate in the formulation of government policies and the implementation thereof and to hold public offices and perform public functions at all levels of governance.

#### *Article 3*

The bodies responsible for organizing the elections shall be independent or neutral and shall have the confidence of all the political actors. Where necessary, appropriate national consultations shall be organized to determine the nature and the structure of the bodies.

#### *Article 4*

1. Each ECOWAS Member State shall ensure the establishment of a reliable registry of births and deaths. A central registry shall be established in each Member State.
2. Member States shall cooperate in this area with a view to exchanging experiences and where necessary providing technical assistance to each other in the production of reliable voters' lists.

*Article 5*

The voters' lists shall be prepared in a transparent and reliable manner, with the collaboration of the political parties and voters who may have access to them whenever the need arises.

*Article 6*

The preparation and conduct of elections and the announcement of results shall be done in a transparent manner.

*Article 7*

Adequate arrangements shall be made to hear and dispose of all petitions relating to the conduct of elections and announcement of results.

*Article 8*

Member States shall use the services of civil society organizations involved in electoral matters to educate and enlighten the public on the need for peaceful elections devoid of all acts of violence.

*Article 9*

The party and/or candidate who loses the elections shall concede defeat to the political party and/or candidate finally declared the winner, following the guidelines and within the deadline stipulated by the law.

*Article 10*

All holders of power at all levels shall refrain from acts of intimidation or harassment against defeated candidates or their supporters.

*Article 20*

[...]

2. The civilian authorities shall respect the apolitical nature of the armed forces and police. All political or trade union activities and propaganda shall be forbidden in the barracks and within the armed forces.

*Article 22*

1. The use of arms to disperse non-violent meetings or demonstrations shall be forbidden. Whenever a demonstration becomes violent, only the use of minimal and/or proportionate force shall be authorized.

[...]

## 6.5 Matrix on the Status of Ratification of Instruments within the Economic Community of West African States<sup>216</sup>

	Protocol on Democracy and Good Governance
Benin	5 <sup>217</sup>
Burkina Faso	•
Cape Verde	
Côte d'Ivoire	5 <sup>218</sup>
Gambia	•
Ghana	•
Guinea	•
Guinea-Bissau	5 <sup>219</sup>
Liberia	5 <sup>220</sup>
Mali	•
Niger	•
Nigeria	5 <sup>221</sup>
Senegal	•
Sierra Leone	•
Togo	5 <sup>222</sup>

216. Up to date information concerning ratifications and signatures of the ECOWAS Protocol on Democracy and Good Governance is not easily found. The information contained in the matrix is from 2005. The number of ratifications required for the entry into force at the international level is nine.

217. Signed 21 December 2001.

218. Signed 21 December 2001.

219. Signed 21 December 2001.

220. Signed 21 December 2001.

221. Signed 21 December 2001.

222. Signed 21 December 2001.

## 6.6 Non-Treaty Standards

### 6.6.1 *Declaration of Political Principles of the Economic Community of West African States (1991)*

4. We will respect human rights and fundamental freedoms in all their plentitude including in particular freedom of thought, conscience, association, religion or belief for all our peoples without distinction as to race, sex, language or creed.
5. We will promote and encourage the full enjoyment by all our peoples of their fundamental human rights, especially their political, economic, social, cultural and other rights inherent in the dignity of the human person and essential to his free and progressive development.
6. We believe in the liberty of the individual and in his inalienable right to participate by means of free and democratic processes in the framing of the society in which he lives. We will therefore strive to encourage and promote in each our countries, political pluralism and those representative institutions and guarantees for personal safety and freedom under the law that are our common heritage.

## The Organization of American States (OAS)

The Organization of American States (OAS) was established in 1948 through the adoption of the OAS Charter and the American Declaration of the Rights and Duties of Man. The two bodies in the Inter-American system responsible for the promotion and protection of human rights are the Inter-American Commission on Human Rights, created in 1959, and the Inter-American Court of Human Rights created by the American Convention on Human Rights. The Commission is responsible, a.o., for receiving, analysing and investigating individual petitions which allege human rights violations. The Court is able to consider cases submitted to it by the Commission or States Parties.

### 6.7 Treaty Standards

#### 6.7.1 *American Convention on Human Rights (AmCHR) (1969)*<sup>223</sup>

##### *Article 13 Freedom of thought and expression*

1. Everyone shall have the right to freedom of thought and expression. This right shall include freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
  2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary in order to ensure:
    - a) respect for the rights or reputations of others; or
    - b) the protection of national security, public order, or public morals.
  3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.
- [...]
5. Any propaganda for war and any advocacy of national, racial or religious hatred that constitute incitement to lawless violence or to any other similar illegal action against any person or group of persons on any grounds including those of race,

colour, religion, language, or national origin shall be considered as offences punishable by law.

*Article 14 Right of reply*

1. Anyone injured by inaccurate or offensive statements or ideas disseminated to the public in general by a legally regulated medium of communication has the right to reply or make a correction using the same communications outlets, under such conditions as the law may establish.

[...]

*Article 15 Right of assembly*

The right of peaceful assembly, without arms, is recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedoms of others.

*Article 16 Freedom of association*

1. Everyone has the right to associate freely for ideological, religious, political, economic, labour, social, cultural, sports, or other purposes.
2. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.
3. The provisions of this article do not bar the imposition of legal restrictions, including even deprivation of the exercise of the right of association, on members of the armed forces and the police.

*Article 23 Right to participate in government*

1. Every citizen shall enjoy the following rights and opportunities:
  - a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
  - b) to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and
  - c) to have access, under general conditions of equality, to the public service of his country.
2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence,

language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

**6.7.2 *Inter-American Convention on the Granting of Political Rights to Women (AmCPRW) (1948)***<sup>224</sup>

*Article 1*

The High Contracting Parties agree that the right to vote and to be elected to national office shall not be denied or abridged by reason of sex.

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223. Entry into force 18 July 1978.

224. Entry into force 29 December 1954.

## 6.8 Matrix on the Status of Ratification of Instruments within the Organization of American States<sup>225</sup>

	AmCHR	AmCPRW
Antigua and Barbuda		
Argentina	•	•
Bahamas		
Barbados	•	
Belize		
Bolivia	•	•
Brazil	•	•
Canada		•
Chile	•	•
Colombia	•	•
Costa Rica	•	•
Cuba <sup>226</sup>		•
Dominica	•	•
Dominican Republic	•	•
Ecuador	•	•
El Salvador	•	•
Grenada	•	
Guatemala	•	• <sup>227</sup>
Guyana		
Haiti	•	•

225. For up-dated information concerning ratification and signature status of the instruments mentioned in this matrix, please contact the database of the Organization of American States at <http://www.oas.org/DIL/treaties.htm>

226. In 1962, Cuba was excluded from participation in the OAS at a meeting of the Ministers of Foreign Affairs of OAS states.

227. Ratified with the following reservation: “The Government of Guatemala makes a reservation with respect to the political rights of women who are illiterate, inasmuch as Article 9(2) of the Constitution of the Republic grants citizenship to Guatemalan women over eighteen years of age who know how to read and write.”

	AmCHR	AmCPRW
Honduras	•	• <sup>228</sup>
Jamaica	•	
Mexico	• <sup>229</sup>	•
Nicaragua	•	•
Panama	•	•
Paraguay	•	•
Peru	•	•
Saint Kitts and Nevis		§ <sup>230</sup>
Saint Lucia		
Saint Vincent and the Grenadines		
Suriname	•	•
Trinidad and Tobago	• <sup>231</sup>	
United States of America	§ <sup>232</sup>	•
Uruguay	• <sup>233</sup>	•
Venezuela	•	•

228. Ratified with the following reservation: “The Delegation of Honduras makes a reservation with respect to the granting of political rights to women, in view of the fact that the political Constitution of its country grants the prerogatives of citizenship to men only.”

229. Ratified with the following reservation: “The Government of Mexico makes express reservation to Article 23, paragraph 2, since the Mexican Constitution provides, in Article 130, that ministers of denominations shall not have a passive vote, nor the right to associate for political purposes.”

230. Signed 18 October 1980.

231. The government ratified the Charter on 4 March 1991 but submitted a notice of denunciation on 26 May 1998.

232. Signed 1 June 1977.

233. Ratified with the following reservation: “Article 80.2 of the Constitution of Uruguay provides that a person’s citizenship is suspended if the person is “under indictment on a criminal charge which may result in a penitentiary sentence.” Such a restriction on the exercise of the rights recognized in Article 23 of the Convention is not envisaged among the circumstances provided for in Article 23, paragraph 2, for which reason the Delegation of Uruguay expresses a reservation on this matter.”

## 6.9 Non-Treaty Standards

### 6.9.1 *American Declaration of the Rights and Duties of Man (1948)*<sup>234</sup>

#### *Article IV.*

Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.

#### *Article XX.*

Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.

#### *Article XXI.*

Every person has the right to assemble peaceably with others in a formal public meeting or an informal gathering, in connection with matters of common interest of any nature.

#### *Article XXII.*

Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labour union or other nature.

#### *Article XXVIII.*

The rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy.

#### *Article XXXII.*

It is the duty of every person to vote in the popular elections of the country of which he is a national, when he is legally capable of doing so.

#### *Article XXXIV.*

It is likewise his duty to hold any public office to which he may be elected by popular vote in the state of which he is a national.

#### *Article XXXVIII.*

It is the duty of every person to refrain from taking part in political activities that, according to law, are reserved exclusively to the citizens of the state in which he is an alien.

## 6.9.2 *Inter-American Democratic Charter (2001)*

### *Article 2*

The effective exercise of representative democracy is the basis for the rule of law and of the constitutional regimes of the member states of the Organization of American States. Representative democracy is strengthened and deepened by permanent, ethical, and responsible participation of the citizenry within a legal framework conforming to the respective constitutional order.

### *Article 3*

Essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.

### *Article 5*

The strengthening of political parties and other political organizations is a priority for democracy. Special attention will be paid to the problems associated with the high cost of election campaigns and the establishment of a balanced and transparent system for their financing.

### *Article 6*

It is the right and responsibility of all citizens to participate in decisions relating to their own development. This is also a necessary condition for the full and effective exercise of democracy. Promoting and fostering diverse forms of participation strengthens democracy.

### *Article 23*

Member states are responsible for organizing, conducting, and ensuring free and fair electoral processes.

Member states, in the exercise of their sovereignty, may request that the Organization of American States provide advisory services or assistance for strengthening and developing their electoral institutions and processes, including sending preliminary missions for that purpose.

*Article 28*

States shall promote the full and equal participation of women in the political structures of their countries as a fundamental element in the promotion and exercise of a democratic culture.

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234. Both the Inter-American Court and the Inter-American Commission on Human Rights have held that, although originally adopted as a declaration and not as a legally binding treaty, the American Declaration is today a source of international obligations for the OAS member States.

## The Council of Europe (CoE)

The Council of Europe was founded in 1949. The Council was set up to defend human rights, parliamentary democracy and the rule of law, to develop continent-wide agreements to standardise member countries' social and legal practices, and to promote awareness of a European identity based on shared values and cutting across different cultures. Protocol No. 11 to the European Convention on Human Rights establishing a full time court came into force on 1 November, 1998. Any Contracting State or individual claiming to be a victim of a violation of the Convention may lodge an application directly with the Court in Strasbourg, alleging a breach by a Contracting State of one of the Convention rights. All final judgments of the Court are binding on the respondent States concerned.

### 6.10 Treaty Standards

#### *6.10.1 Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (1950)<sup>235</sup>*

##### *Article 10 Freedom of Expression*

1. Everyone has right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

##### *Article 11 Freedom of assembly and association*

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others;
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights

and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state.

*Article 16 Restrictions on political activity of aliens*

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

**6.10.2 *First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR – P1) (1952)***<sup>236</sup>

*Article 3 Right to free elections*

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of legislature.

**6.10.3 *Framework Convention for the Protection of National Minorities (FCPNM) (1995)***

*Article 4*

[...]

2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.
3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

*Article 7*

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

*Article 9*

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons

belonging to a national minority are not discriminated against in their access to the media.

[...]

*Article 15*

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in ... public affairs, in particular those affecting them.

**6.10.4 European Charter of Local Self-Government (ECLSG) (1985)<sup>237</sup>**

*Article 3 Concept of local selfgovernment*

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

**6.10.5 Convention on the Participation of Foreigners in Public Life at Local Level (CPFPL) (1992)<sup>238</sup>**

*Article 2*

For the purposes of this Convention, the term “foreign residents” means persons who are not nationals of the State and who are lawfully resident on its territory.

*Article 3*

Each Party undertakes, subject to the provisions of Article 9, to guarantee to foreign residents, on the same terms as to its own nationals:

- a) the right to freedom of expression; this right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
- b) the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of their interests. In particular, the right to freedom of association shall imply the right of foreign residents to form local associations of their own for purposes of mutual assistance, maintenance and expression of their cultural identity or

defence of their interests in relation to matters falling within the province of the local authority, as well as the right to join any association.

*Article 6*

1. Each Party undertakes, subject to the provisions of Article 9, paragraph 1, to grant to every foreign resident the right to vote and to stand for election in local authority elections, provided that he fulfils the same legal requirements as apply to nationals and furthermore has been a lawful and habitual resident in the State concerned for the 5 years preceding the elections.
2. However, a Contracting State may declare, when depositing its instrument of ratification, acceptance, approval or accession, that it intends to confine the application of paragraph 1 to the right to vote only.

*Article 7*

Each Party may, either unilaterally or by bilateral or multilateral agreement, stipulate that the residence requirements laid down in Article 6 are satisfied by a shorter period of residence.

*Article 9*

1. In time of war or other public emergency threatening the life of the nation, the rights accorded to foreign residents under Part I may be subjected to further restrictions to the extent strictly required by the exigencies of the situation, provided that such restrictions are not inconsistent with the Party's other obligations under international law.
2. As the right recognised by Article 3(a) carries with it duties and responsibilities, it may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
3. The right recognised by Article 3.b may not be subject to any restrictions other than such as are prescribed by law and are necessary in a democratic society, in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

[...]

*Article 15*

The provisions of this Convention shall apply to all the categories of local authorities existing within the territory of each Party. However, each Contracting State may, when depositing its instrument of ratification, acceptance, approval or accession, specify the categories of territorial authorities to which it intends to confine the scope of this Convention or which it intends to exclude from its scope.

- 235. Entry into force 3 September 1953.
- 236. Entry into force 18 May 1954.
- 237. Entry into force 1 September 1988.
- 238. Entry into force 1 May 1997.

## 6.11 Matrix on the Status of Ratification of Instruments within the Council of Europe<sup>239</sup>

	ECHR	ECHR – P1	FCPNM	CLSG	CPEPL
Albania	•	•	•	•	•
Andorra	•	§ <sup>240</sup>			
Armenia	•	•	•	•	
Austria	•	•	•	•	
Azerbaijan	•	•	•	•	
Belgium	•	•	§ <sup>241</sup>	•	
Bosnia and Herzegovina	•	•	•	•	
Bulgaria	•	•	•	•	
Croatia	•	•	•	•	
Cyprus	•	•	•	•	§ <sup>242</sup>
Czech Republic	•	•	•	•	§ <sup>243</sup>
Denmark	•	•	•	•	•
Estonia	•	•	•	•	
Finland	•	•	•	•	•
France	•	•		•	
Georgia	•	•	•	•	
Germany	•	•	•	•	
Greece	•	•	§ <sup>244</sup>	•	
Hungary	•	•	•	•	
Iceland	•	•	§ <sup>245</sup>	•	•
Ireland	•	•	•	•	

239. For up-dated information concerning ratification and signature status of the instruments mentioned in this matrix, please check the database of the Council of Europe at <http://conventions.coe.int/>

240. Signed 31 May 2007.

241. Signed 31 July 2001.

242. Signed 15 November 1996.

243. Signed 7 June 2000.

244. Signed 22 September 1997.

245. Signed 1 February 1995.

	ECHR	ECHR – P1	FCPNM	CLSG	CPFPL
Italy	•	•	•	•	• <sup>246</sup>
Latvia	•	•	•	•	
Liechtenstein	•	•	•	•	
Lithuania	•	•	•	•	
Luxembourg	•	•	§ <sup>247</sup>	•	
Malta	• <sup>248</sup>	•	• <sup>249</sup>	•	
Monaco	•	§ <sup>250</sup>			
Montenegro	•	•	•	• <sup>251</sup>	
Netherlands	•	•	•	•	•
Norway	•	•	•	•	•
Poland	•	•	•	•	
Portugal	•	•	•	•	
Republic of Moldova	•	•	•	•	
Romania	•	•	•	•	
Russian Federation	•	•	•	•	
San Marino	•	•	•		
Serbia	•	•	•	§ <sup>252</sup>	
Slovakia	•	•	•	•	

246. Ratified with the following reservation: “Italy declares, in application of the provisions of Article 1, paragraph 1, of the Convention, that it will confine the application of this instrument to the Chapters ”A” and ”B”.”

247. Signed 20 July 1995.

248. Ratified with the following reservation: “...the Constitution of Malta allows such restrictions to be imposed upon public officers with regard to their freedom of expression as are reasonably justifiable in a democratic society. The Code of Conduct of public officers in Malta precludes them from taking an active part in political discussions or other political activity during working hours or on official premises.”

249. Ratified with the following reservation: “The Government of Malta reserves the right not to be bound by the provisions of Article 15 insofar as these entail the right to vote or to stand for election either for the House of Representatives or for Local Councils.”

250. Signed 5 October 2004.

251. Signed 24 June 2005.

252. Signed 24 June 2006.

	ECHR	ECHR – P1	FCPNM	CLSG	CPFPL
Slovenia	•	•	•	•	§ <sup>253</sup>
Spain	• <sup>254</sup>	•	•	•	
Sweden	•	•	•	•	•
Switzerland	•	§ <sup>255</sup>	•	•	
The Former Yugoslav Republic of Macedonia	•	•	•	•	
Turkey	•	•		•	
Ukraine	•	•	•	•	
United Kingdom of Great Britain and Northern Ireland	•	•	•	•	§ <sup>256</sup>

253. Signed 23 November 2006.

254. Ratified with the following reservation to article 11: "...it may be incompatible with Articles 28 and 127 of the Spanish Constitution. Article 127, paragraph 1, specifies that serving judges, law officers and prosecutors may not belong to either political parties or trade unions and provides that legislation shall lay down the system and modalities as to the professional association of these groups."

255. Signed 19 May 1976.

256. Signed 5 February 1992.

## 6.12 Non-Treaty Standards

### *6.12.1 Recommendation on the Electoral, Civil and Social Rights of Prisoners (1962)*

#### *A. General Principles*

1. The rules set out herein define the effect of detention on the electoral, civil and social rights which the prisoner, untried or convicted, would enjoy if he were free. They constitute examples of the application of common minimum rules.
2. When, in a given State, a person is deprived by law of the rights referred to at Point 1, it is desirable that these rules be taken into consideration should the relevant legislation be modified. In the absence of any national law on a particular point, these rules should be regarded as expressing European legal conscience in that respect.
3. These provisions are founded on the principle that the mere fact of detention does not affect the possession of these rights, but that their exercise may be limited when it is incompatible with the purpose of imprisonment or the maintenance of the order and the security of the prison.
4. Under no circumstances shall the rules set out in this resolution be interpreted as restricting or derogating from the rights and freedoms recognized in the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocol thereto.

#### *B. Electoral Rights*

5. If the law allows electors to vote without personally visiting the polling-booth, a detainee shall be allowed this prerogative unless he has been deprived of the right to vote by law or by court order.
6. A prisoner permitted to vote shall be afforded opportunities to inform himself of the situation, in order to exercise his right.

### *6.12.2 Recommendation on Measures concerning Media Coverage of Election Campaigns (1999)*

The principles of fairness, balance and impartiality in the coverage of election campaigns by the media should apply to all types of political elections taking place in member States, that is, presidential, legislative, regional and, where practicable, local elections and political referenda.

These principles should also apply, where relevant, to media reporting on elections taking place abroad, especially when these media address citizens of the country where the election is taking place.

### *I. Measures concerning the print media*

#### 1. Freedom of the press

Regulatory frameworks on media coverage of elections should not interfere with the editorial independence of newspapers or magazines nor with their right to express any political preference.

#### 2. Print media outlets owned by public authorities

Member States should adopt measures whereby print media outlets which are owned by public authorities, when covering electoral campaigns, should do so in a fair, balanced and impartial manner, without discriminating against or supporting a specific political party or candidate.

If such media outlets accept paid political advertising in their publications, they should ensure that all political contenders and parties that request the purchase of advertising space are treated in an equal and non-discriminatory manner.

### *II. Measures concerning the broadcast media*

#### 1. General framework

During electoral campaigns, regulatory frameworks should encourage and facilitate the pluralistic expression of opinions via the broadcast media.

With due respect for the editorial independence of broadcasters, regulatory frameworks should also provide for the obligation to cover electoral campaigns in a fair, balanced and impartial manner in the overall programme services of broadcasters. Such an obligation should apply to both public service broadcasters as well as private broadcasters in their relevant transmission areas.

In member States where the notion of "pre-electoral time" is defined under domestic legislation, the rules on fair, balanced, and impartial coverage of electoral campaigns by the broadcast media should also apply to this period.

#### 2. News and current affairs programmes

Where self-regulation does not provide for this, member States should adopt measures whereby public and private broadcasters, during the election period, should in particular be fair, balanced and impartial in their news and current affairs programmes, including discussion programmes such as interviews or debates.

No privileged treatment should be given by broadcasters to public authorities during such programmes. This matter should primarily be addressed via appropriate self-regulatory measures. As appropriate, member States might examine whether, where practicable, the relevant authorities monitoring the coverage of

elections should be given the power to intervene in order to remedy possible shortcomings.

### 3. Other programmes

Special care should be taken with programmes other than news or current affairs which are not directly linked to the campaign but which may also have an influence on the attitude of voters.

### 4. Free airtime for political parties/candidates on public broadcast media

Member States may examine the advisability of including in their regulatory frameworks provisions whereby free airtime is made available to political parties/candidates on public broadcasting services in electoral time.

Wherever such airtime is granted, this should be done in a fair and non-discriminatory manner, on the basis of transparent and objective criteria.

### 5. Paid political advertising

In member States where political parties and candidates are permitted to buy advertising space for electoral purposes, regulatory frameworks should ensure that:

- the possibility of buying advertising space should be available to all contending parties, and on equal conditions and rates of payment;
- the public is aware that the message is a paid political advertisement.

Member States may consider introducing a provision in their regulatory frameworks to limit the amount of political advertising space which a given party or candidate can purchase.

## *III. Measures concerning both the print and broadcast media*

### 1. “Day of reflection”

Member States may consider the merits of including a provision in their regulatory frameworks to prohibit the dissemination of partisan electoral messages on the day preceding voting.

### 2. Opinion polls

Regulatory or self-regulatory frameworks should ensure that the media, when disseminating the results of opinion polls, provide the public with sufficient information to make a judgement on the value of the polls. Such information could, in particular:

- name the political party or other organisation or person which commissioned and paid for the poll;
- identify the organisation conducting the poll and the methodology employed;

- indicate the sample and margin of error of the poll;
- indicate the date and/or period when the poll was conducted.

All other matters concerning the way in which the media present the results of opinion polls should be decided by the media themselves.

Any restriction by member States forbidding the publication/broadcasting of opinion polls (on voting intentions) on voting day or a number of days before the election should comply with Article 10 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights.

Similarly, in respect of exit polls, member States may consider prohibiting reporting by the media on the results of such polls until all polling stations in the country have closed.

### 3. The right of reply

Given the short duration of an election campaign, any candidate or political party which is entitled to a right of reply under national law or systems should be able to exercise this right during the campaign period.

#### *IV. Measures to protect the media at election time*

##### 1. Non-interference by public authorities

Public authorities should refrain from interfering in the activities of journalists and other media personnel with a view to influencing the elections.

##### 2. Protection against attacks, intimidation or other unlawful pressures on the media

Public authorities should take appropriate steps for the effective protection of journalists and other media personnel and their premises, as this assumes a greater significance during elections. At the same time, this protection should not obstruct them in carrying out their work.

#### ***6.12.3 Recommendation on Legal, Operational and Technical Standards for E-voting (2004)***

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

[...]

Recommends that the governments of member states, where they are already using, or are considering using, e-voting comply, subject to paragraph iv. below, with paragraphs i. to iii. below, and the standards and requirements on the legal, operational

and technical aspects of e-voting, as set out in the appendices to the present Recommendation:

- i. e-voting shall respect all the principles of democratic elections and referendums. E-voting shall be as reliable and secure as democratic elections and referendums which do not involve the use of electronic means. This general principle encompasses all electoral matters, whether mentioned or not in the appendices;
- ii. the interconnection between the legal, operational and technical aspects of e-voting, as set out in the appendices, has to be taken into account when applying the Recommendation;
- iii. member states should consider reviewing their relevant domestic legislation in the light of this Recommendation;
- iv. the principles and provisions contained in the appendices to this Recommendation do not, however, require individual member states to change their own domestic voting procedures which may exist at the time of the adoption of this Recommendation, and which can be maintained by those member states when e-voting is used, as long as these domestic voting procedures comply with all the principles of democratic elections and referendums;
- v. in order to provide the Council of Europe with a basis for possible further action on e-voting within two years after the adoption of this Recommendation, the Committee of Ministers recommends that member states:
  - keep under review their policy on, and experience of, e-voting, and in particular the implementation of the provisions of this Recommendation; and
  - report to the Council of Europe Secretariat the results of their reviews, who will forward them to member states and follow up the issue of e-voting.

In this Recommendation the following terms are used with the following meanings:

- authentication: the provision of assurance of the claimed identity of a person or data;
- ballot: the legally recognised means by which the voter can express his or her choice of voting option;
- candidate: a voting option consisting of a person and/or a group of persons and/or a political party;
- casting of the vote: entering the vote in the ballot box;
- e-election or e-referendum: a political election or referendum in which electronic means are used in one or more stages;
- electronic ballot box: the electronic means by which the votes are stored pending being counted;
- e-voting: an e-election or e-referendum that involves the use of electronic means in at least the casting of the vote;

- remote e-voting: e-voting where the casting of the vote is done by a device not controlled by an election official;
- sealing: protecting information so that it cannot be used or interpreted without the help of other information or means available only to specific persons or authorities;
- vote: the expression of the choice of voting option;
- voter: a person who is entitled to cast a vote in a particular election or referendum;
- voting channel: the way by which the voter can cast a vote;
- voting options: the range of possibilities from which a choice can be made through the casting of the vote in an election or referendum;
- voters' register: a list of persons entitled to vote (electors).

## Appendix I: Legal standards

### *A. Principles*

#### *I. Universal suffrage*

1. The voter interface of an e-voting system shall be understandable and easily usable.
2. Possible registration requirements for e-voting shall not pose an impediment to the voter participating in e-voting.
3. E-voting systems shall be designed, as far as it is practicable, to maximise the opportunities that such systems can provide for persons with disabilities.
4. Unless channels of remote e-voting are universally accessible, they shall be only an additional and optional means of voting.

#### *II. Equal suffrage*

5. In relation to any election or referendum, a voter shall be prevented from inserting more than one ballot into the electronic ballot box. A voter shall be authorised to vote only if it has been established that his/her ballot has not yet been inserted into the ballot box.
6. The e-voting system shall prevent any voter from casting a vote by more than one voting channel.
7. Every vote deposited in an electronic ballot box shall be counted, and each vote cast in the election or referendum shall be counted only once.
8. Where electronic and non-electronic voting channels are used in the same election or referendum, there shall be a secure and reliable method to aggregate all votes and to calculate the correct result.

### *III. Free suffrage*

9. The organisation of e-voting shall secure the free formation and expression of the voter's opinion and, where required, the personal exercise of the right to vote.
10. The way in which voters are guided through the e-voting process shall be such as to prevent their voting precipitately or without reflection.
11. Voters shall be able to alter their choice at any point in the e-voting process before casting their vote, or to break off the procedure, without their previous choices being recorded or made available to any other person.
12. The e-voting system shall not permit any manipulative influence to be exercised over the voter during the voting.
13. The e-voting system shall provide the voter with a means of participating in an election or referendum without the voter exercising a preference for any of the voting options, for example, by casting a blank vote.
14. The e-voting system shall indicate clearly to the voter when the vote has been cast successfully and when the whole voting procedure has been completed.
15. The e-voting system shall prevent the changing of a vote once that vote has been cast.

### *IV. Secret suffrage*

16. E-voting shall be organised in such a way as to exclude at any stage of the voting procedure and, in particular, at voter authentication, anything that would endanger the secrecy of the vote.
17. The e-voting system shall guarantee that votes in the electronic ballot box and votes being counted are, and will remain, anonymous, and that it is not possible to reconstruct a link between the vote and the voter.
18. The e-voting system shall be so designed that the expected number of votes in any electronic ballot box will not allow the result to be linked to individual voters.
19. Measures shall be taken to ensure that the information needed during electronic processing cannot be used to breach the secrecy of the vote.

## *B. Procedural safeguards*

### *I. Transparency*

20. Member states shall take steps to ensure that voters understand and have confidence in the e-voting system in use.
21. Information on the functioning of an e-voting system shall be made publicly available.

22. Voters shall be provided with an opportunity to practise any new method of e-voting before, and separately from, the moment of casting an electronic vote.
23. Any observers, to the extent permitted by law, shall be able to be present to observe and comment on the e-elections, including the establishing of the results.

### *II. Verifiability and accountability*

24. The components of the e-voting system shall be disclosed, at least to the competent electoral authorities, as required for verification and certification purposes.
25. Before any e-voting system is introduced, and at appropriate intervals thereafter, and in particular after any changes are made to the system, an independent body, appointed by the electoral authorities, shall verify that the e-voting system is working correctly and that all the necessary security measures have been taken.
26. There shall be the possibility for a recount. Other features of the e-voting system that may influence the correctness of the results shall be verifiable.
27. The e-voting system shall not prevent the partial or complete re-run of an election or a referendum.

### *III. Reliability and security*

28. The member state's authorities shall ensure the reliability and security of the e-voting system.
29. All possible steps shall be taken to avoid the possibility of fraud or unauthorised intervention affecting the system during the whole voting process.
30. The e-voting system shall contain measures to preserve the availability of its services during the e-voting process. It shall resist, in particular, malfunction, breakdowns or denial of service attacks.
31. Before any e-election or e-referendum takes place, the competent electoral authority shall satisfy itself that the e-voting system is genuine and operates correctly.
32. Only persons appointed by the electoral authority shall have access to the central infrastructure, the servers and the election data. There shall be clear rules established for such appointments. Critical technical activities shall be carried out by teams of at least two people. The composition of the teams shall be regularly changed. As far as possible, such activities shall be carried out outside election periods.
33. While an electronic ballot box is open, any authorised intervention affecting the system shall be carried out by teams of at least two people, be the subject

of a report, be monitored by representatives of the competent electoral authority and any election observers.

34. The e-voting system shall maintain the availability and integrity of the votes. It shall also maintain the confidentiality of the votes and keep them sealed until the counting process. If stored or communicated outside controlled environments, the votes shall be encrypted.
35. Votes and voter information shall remain sealed as long as the data is held in a manner where they can be associated. Authentication information shall be separated from the voter's decision at a pre-defined stage in the e-election or referendum.

## Appendix II: Operational standards

### *I. Notification*

36. Domestic legal provisions governing an e-election or e-referendum shall provide for clear timetables concerning all stages of the election or referendum, both before and after the election or referendum.
37. The period in which an electronic vote can be cast shall not begin before the notification of an election or a referendum. Particularly with regard to remote e-voting, the period shall be defined and made known to the public well in advance of the start of voting.
38. The voters shall be informed, well in advance of the start of voting, in clear and simple language, of the way in which the e-voting will be organised, and any steps a voter may have to take in order to participate and vote.

### *II. Voters*

39. There shall be a voters' register which is regularly updated. The voter shall be able to check, as a minimum, the information which is held about him/her on the register, and request corrections.
40. The possibility of creating an electronic register and introducing a mechanism allowing online application for voter registration and, if applicable, for application to use e-voting, shall be considered. If participation in e-voting requires a separate application by the voter and/or additional steps, an electronic, and, where possible, interactive procedure shall be considered.
41. In cases where there is an overlap between the period for voter registration and the voting period, provision for appropriate voter authentication shall be made.

*III. Candidates*

42. The possibility of introducing online candidate nomination may be considered.
43. A list of candidates that is generated and made available electronically shall also be publicly available by other means.

*IV. Voting*

44. It is particularly important, where remote e-voting takes place while polling stations are open, that the system shall be so designed that it prevents any voter from voting more than once.
45. Remote e-voting may start and/or end at an earlier time than the opening of any polling station. Remote e-voting shall not continue after the end of the voting period at polling stations.
46. For every e-voting channel, support and guidance arrangements on voting procedures shall be set up for, and be available to, the voter. In the case of remote e-voting, such arrangements shall also be available through a different, widely available communication channel.
47. There shall be equality in the manner of presentation of all voting options on the device used for casting an electronic vote.
48. The electronic ballot by which an electronic vote is cast shall be free from any information about voting options, other than that strictly required for casting the vote. The e-voting system shall avoid the display of other messages that may influence the voters' choice.
49. If it is decided that information about voting options will be accessible from the e-voting site, this information shall be presented with equality.
50. Before casting a vote using a remote e-voting system, voters' attention shall be explicitly drawn to the fact that the e-election or e-referendum in which they are submitting their decision by electronic means is a real election or referendum. In case of tests, participants shall have their attention drawn explicitly to the fact that they are not participating in a real election or referendum and shall – when tests are continued at election times – at the same time be invited to cast their ballot by the voting channel(s) available for that purpose.
51. A remote e-voting system shall not enable the voter to be in possession of a proof of the content of the vote cast.
52. In a supervised environment, the information on the vote shall disappear from the visual, audio or tactile display used by the voter to cast the vote as soon as it has been cast. Where a paper proof of the electronic vote is provided to the voter at a polling station, the voter shall not be able to show it to any other person, or take this proof outside of the polling station.

*V. Results*

53. The e-voting system shall not allow the disclosure of the number of votes cast for any voting option until after the closure of the electronic ballot box. This information shall not be disclosed to the public until after the end of the voting period.
54. The e-voting system shall prevent processing information on votes cast within deliberately chosen sub-units that could reveal individual voters' choices.
55. Any decoding required for the counting of the votes shall be carried out as soon as practicable after the closure of the voting period.
56. When counting the votes, representatives of the competent electoral authority shall be able to participate in, and any observers able to observe, the count.
57. A record of the counting process of the electronic votes shall be kept, including information about the start and end of, and the persons involved in, the count.
58. In the event of any irregularity affecting the integrity of votes, the affected votes shall be recorded as such.

*VI. Audit*

59. The e-voting system shall be auditable.
60. The conclusions drawn from the audit process shall be applied in future elections and referendums.

## Appendix III: Technical requirements

The design of an e-voting system shall be underpinned by a comprehensive assessment of the risks involved in the successful completion of the particular election or referendum. The e-voting system shall include the appropriate safeguards, based on this risk assessment, to manage the specific risks identified. Service failure or service degradation shall be kept within pre-defined limits.

*A. Accessibility*

61. Measures shall be taken to ensure that the relevant software and services can be used by all voters and, if necessary, provide access to alternative ways of voting.
62. Users shall be involved in the design of e-voting systems, particularly to identify constraints and test ease of use at each main stage of the development process.
63. Users shall be supplied, whenever required and possible, with additional facilities, such as special interfaces or other equivalent resources, such as personal assistance. User facilities shall comply as much as possible with the guidelines set out in the Web Accessibility Initiative (WAI).

64. Consideration shall be given, when developing new products, to their compatibility with existing ones, including those using technologies designed to help people with disabilities.
65. The presentation of the voting options shall be optimised for the voter.

*B. Interoperability*

66. Open standards shall be used to ensure that the various technical components or services of an e-voting system, possibly derived from a variety of sources, interoperate.
67. At present, the Election Markup Language (EML) standard is such an open standard and in order to guarantee interoperability, EML shall be used whenever possible for e-election and e-referendum applications. The decision of when to adopt EML is a matter for member states. The EML standard valid at the time of adoption of this recommendation, and supporting documentation are available on the Council of Europe website.
68. In cases which imply specific election or referendum data requirements, a localisation procedure shall be used to accommodate these needs. This would allow for extending or restricting the information to be provided, whilst still remaining compatible with the generic version of EML. The recommended procedure is to use structured schema languages and pattern languages.

*C. Systems operation*

*(for the central infrastructure and clients in controlled environments)*

69. The competent electoral authorities shall publish an official list of the software used in an e-election or e-referendum. Member states may exclude from this list data protection software for security reasons. At the very least it shall indicate the software used, the versions, its date of installation and a brief description. A procedure shall be established for regularly installing updated versions and corrections of the relevant protection software. It shall be possible to check the state of protection of the voting equipment at any time.
70. Those responsible for operating the equipment shall draw up a contingency procedure. Any backup system shall conform to the same standards and requirements as the original system.
71. Sufficient backup arrangements shall be in place and be permanently available to ensure that voting proceeds smoothly. The staff concerned shall be ready to intervene rapidly according to a procedure drawn up by the competent electoral authorities.
72. Those responsible for the equipment shall use special procedures to ensure that during the polling period the voting equipment and its use satisfy requirements. The backup services shall be regularly supplied with monitoring protocols.

73. Before each election or referendum, the equipment shall be checked and approved in accordance with a protocol drawn up by the competent electoral authorities. The equipment shall be checked to ensure that it complies with technical specifications. The findings shall be submitted to the competent electoral authorities.
74. All technical operations shall be subject to a formal control procedure. Any substantial changes to key equipment shall be notified.
75. Key e-election or e-referendum equipment shall be located in a secure area and that area shall, throughout the election or referendum period, be guarded against interference of any sort and from any person. During the election or referendum period a physical disaster recovery plan shall be in place. Furthermore, any data retained after the election or referendum period shall be stored securely.
76. Where incidents that could threaten the integrity of the system occur, those responsible for operating the equipment shall immediately inform the competent electoral authorities, who will take the necessary steps to mitigate the effects of the incident. The level of incident which shall be reported shall be specified in advance by the electoral authorities.

#### *D. Security*

##### *I. General requirements*

*(referring to pre-voting, voting, and post-voting stages)*

77. Technical and organisational measures shall be taken to ensure that no data will be permanently lost in the event of a breakdown or a fault affecting the e-voting system.
78. The e-voting system shall maintain the privacy of individuals. Confidentiality of voters' registers stored in or communicated by the e-voting system shall be maintained.
79. The e-voting system shall perform regular checks to ensure that its components operate in accordance with its technical specifications and that its services are available.
80. The e-voting system shall restrict access to its services, depending on the user identity or the user role, to those services explicitly assigned to this user or role. User authentication shall be effective before any action can be carried out.
81. The e-voting system shall protect authentication data so that unauthorised entities cannot misuse, intercept, modify, or otherwise gain knowledge of all or some of this data. In uncontrolled environments, authentication based on cryptographic mechanisms is advisable.

82. Identification of voters and candidates in a way that they can unmistakably be distinguished from other persons (unique identification) shall be ensured.
83. E-voting systems shall generate reliable and sufficiently detailed observation data so that election observation can be carried out. The time at which an event generated observation data shall be reliably determinable. The authenticity, availability and integrity of the data shall be maintained.
84. The e-voting system shall maintain reliable synchronised time sources. The accuracy of the time source shall be sufficient to maintain time marks for audit trails and observations data, as well as for maintaining the time limits for registration, nomination, voting, or counting.
85. Electoral authorities have overall responsibility for compliance with these security requirements, which shall be assessed by independent bodies.

*II. Requirements in pre-voting stages  
(and for data communicated to the voting stage)*

86. The authenticity, availability and integrity of the voters' registers and lists of candidates shall be maintained. The source of the data shall be authenticated. Provisions on data protection shall be respected.
87. The fact that candidate nomination and, if required, the decision of the candidate and/or the competent electoral authority to accept a nomination has happened within the prescribed time limits shall be ascertainable.
88. The fact that voter registration has happened within the prescribed time limits shall be ascertainable.

*III. Requirements in the voting stage  
(and for data communicated during post-election stages)*

89. The integrity of data communicated from the pre-voting stage (e.g. voters' registers and lists of candidates) shall be maintained. Data-origin authentication shall be carried out.
90. It shall be ensured that the e-voting system presents an authentic ballot to the voter. In the case of remote e-voting, the voter shall be informed about the means to verify that a connection to the official server has been established and that the authentic ballot has been presented.
91. The fact that a vote has been cast within the prescribed time limits shall be ascertainable.
92. Sufficient means shall be provided to ensure that the systems that are used by the voters to cast the vote can be protected against influence that could modify the vote.
93. Residual information holding the voter's decision or the display of the voter's choice shall be destroyed after the vote has been cast. In the case of remote

- e-voting, the voter shall be provided with information on how to delete, where that is possible, traces of the vote from the device used to cast the vote.
94. The e-voting system shall at first ensure that a user who tries to vote is eligible to vote. The e-voting system shall authenticate the voter and shall ensure that only the appropriate number of votes per voter is cast and stored in the electronic ballot box.
  95. The e-voting system shall ensure that the voter's choice is accurately represented in the vote and that the sealed vote enters the electronic ballot box.
  96. After the end of the e-voting period, no voter shall be allowed to gain access to the e-voting system. However, the acceptance of electronic votes into the electronic ballot box shall remain open for a sufficient period of time to allow for any delays in the passing of messages over the e-voting channel.

#### *IV. Requirements in post-voting stages*

97. The integrity of data communicated during the voting stage (e.g. votes, voters' registers, lists of candidates) shall be maintained. Data-origin authentication shall be carried out.
98. The counting process shall accurately count the votes. The counting of votes shall be reproducible.
99. The e-voting system shall maintain the availability and integrity of the electronic ballot box and the output of the counting process as long as required.

#### *E. Audit*

##### *I. General*

100. The audit system shall be designed and implemented as part of the e-voting system. Audit facilities shall be present on different levels of the system: logical, technical and application.
101. End-to-end auditing of an e-voting system shall include recording, providing monitoring facilities and providing verification facilities. Audit systems with the features set out in sections II – V below shall therefore be used to meet these requirements.

##### *II. Recording*

102. The audit system shall be open and comprehensive, and actively report on potential issues and threats.
103. The audit system shall record times, events and actions, including:
  - a. all voting-related information, including the number of eligible voters, the number of votes cast, the number of invalid votes, the counts and recounts, etc.;

- b. any attacks on the operation of the e-voting system and its communications infrastructure;
- c. system failures, malfunctions and other threats to the system.

### *III. Monitoring*

- 104. The audit system shall provide the ability to oversee the election or referendum and to verify that the results and procedures are in accordance with the applicable legal provisions.
- 105. Disclosure of the audit information to unauthorised persons shall be prevented.
- 106. The audit system shall maintain voter anonymity at all times.

### *IV. Verifiability*

- 107. The audit system shall provide the ability to cross-check and verify the correct operation of the e-voting system and the accuracy of the result, to detect voter fraud and to prove that all counted votes are authentic and that all votes have been counted.
- 108. The audit system shall provide the ability to verify that an e-election or e-referendum has complied with the applicable legal provisions, the aim being to verify that the results are an accurate representation of the authentic votes.

### *V. Other*

- 109. The audit system shall be protected against attacks which may corrupt, alter or lose records in the audit system.
- 110. Member states shall take adequate steps to ensure that the confidentiality of any information obtained by any person while carrying out auditing functions is guaranteed.

### *F. Certification*

- 111. Member states shall introduce certification processes that allow for any ICT (Information and Communication Technology) component to be tested and certified as being in conformity with the technical requirements described in this recommendation.
- 112. In order to enhance international co-operation and avoid duplication of work, member states shall consider whether their respective agencies shall join, if they have not done so already, relevant international mutual recognition arrangements such as the European Co-operation for Accreditation (EA), the International Laboratory Accreditation Co-operation (ILAC), the International Accreditation Forum (IAF) and other bodies of a similar nature.

## The Commonwealth of Independent States (CIS)

The Commonwealth of Independent States (CIS) was formed in December 1991 by the leaders of the Republic of Belarus, the Russian Federation and the Ukraine. Later that month they – along with eleven other former Soviet Union states – unanimously adopted the Alma-Ata Declaration, which confirmed the commitment of the former USSR republics to cooperation in various fields of external and internal policies. CIS decisions are reached through regular summits of heads of state and through the formation of ministerial committees, with all CIS members being equals. The CIS Convention on Human Rights foresees a control mechanism in the form of the Human Rights Commission of the Commonwealth of Independent States. The CIS commission monitors the execution of the convention by issuing recommendations. The members of the commission are appointed representatives of the States Parties.

### 6.13 Treaty Standards

#### *6.13.1 Convention of the Commonwealth of Independent States on Human Rights and Fundamental Freedoms (1995)<sup>257</sup>*

##### *Article 11*

1. Everyone shall have the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas by any legal means without interference by a public authority and regardless of frontiers.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions and restrictions as are prescribed by law and are necessary in a democratic society, in the interests of national security, public safety or public order or for the protection of the rights and freedoms of others.

##### *Article 12*

1. Everyone shall have the right to freedom of peaceful assembly and to freedom of association with others,
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, public order, public health or morals

or for the protection of the rights and freedoms of others. This Article shall not preclude the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or by members of the law-enforcement or administrative organs of the State.

*Article 29*

In accordance with national legislation, everyone shall have the right and opportunity and in the State of which he is a citizen:

- a) to take part in the management and conduct of public affairs, either directly or through freely chosen representatives;
- b) to vote and to be elected at elections held on the basis of universal and equal suffrage by secret ballot, that guarantees the free expression of the will of the voters;
- c) to have access, on general conditions of equality, to the public service of his country.

*Article 30*

Nothing in Articles 11, 12 and 20 shall be regarded as preventing the Contracting Parties from imposing restrictions on the political activity of alien citizens and stateless persons.

***6.13.2 Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States (2002)<sup>258</sup>***

The member states of this Convention (hereinafter referred to as "the Parties"), considering the aims and principles of the Charter of the Commonwealth of Independent States, reaffirming the importance of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which establish that the will of the people as expressed in periodic and genuine elections shall be the basis of the authority of government, as well as the documents of the Organization for Security and Cooperation in Europe, the Council of Europe and other international organizations on the conduct of free and fair elections,

Convinced that the recognition, observance and protection of human and civil rights and freedoms, the development and perfection of the democratic institutions of expression of the will of the people and the procedures for their realization in accordance with the universally accepted principles and norms of international law on the basis of the national constitution and legal acts are the purpose and obligation of a law-based state, one of the inalienable conditions for social stability and further strengthening of cooperation between the states in the name

of the realization and protection of the ideals and principles which constitute their common democratic asset,

Wishing to facilitate the consolidation and improvement of the democratic systems of representative government, democratic traditions of expression of the will of the people in elections, realization of other forms of the power of the people based on the supremacy of law and maximum consideration for the national and historical traditions,

Convinced that elections are one of the political and legal instruments of a stable civil society and sustainable development of a state,

Recognizing the value of the national experience in the legal regulation of elections accumulated by the member states of the Commonwealth of Independent States, guarantees of the electoral rights and freedoms of a human being and citizen,

Determined to assure the combination of the universally accepted election standards and national norms for the regulation of elections, electoral rights and freedoms of a human being and citizen, as well as the guarantees for their realization and protection; implement the provisions of this Convention on the basis of the constitution and national laws and the appropriate state policy,

Wishing to lay down the guarantees for organization of public and international observation of elections in the member states of this Convention,

Have agreed as follows:

*Article 1 Standards of Democratic Elections*

1. Democratic elections are one of the supreme direct expressions of the power and will of the people, the basis of elective bodies of state power and bodies of local self-government, other bodies of popular (national) representation, elective officials.
2. The Parties recognize that the election standards are the following: the right of a citizen to elect and be elected to bodies of state power and bodies of local self-government, other bodies of popular (national) representation; periodic and mandatory, fair, genuine, free elections based on universal, equal suffrage and held by secret ballot, which ensure free expression of the will of voters; open and public elections; judicial and other protection of electoral rights and freedoms of a human being and citizen; public and international observation of elections; guarantees for realization of electoral rights and freedoms of participants in the electoral process.
3. The right of a citizen to elect and be elected shall be laid down by the constitution and/or laws and the procedure for its exercise shall be established by laws and other legal acts. Legislative regulation of the right to elect and be elected, election procedures (election systems), as well as restriction of electoral rights and

- freedoms shall not limit or abolish the universally accepted civil and human rights and the constitutional and/or legislative guarantees for their exercise, and shall not be discriminatory.
4. Elections shall be called and conducted on the basis of the constitution and laws.
  5. Elected persons, who polled the required number of votes established by the constitution, law, shall assume office in the procedure and at the time established by laws, thereby admitting their responsibility to voters, and shall remain in office until the period of their powers expires or these powers are terminated otherwise, as provided by the constitutions, laws in accordance with the democratic parliamentary and constitutional procedures.
  6. The legitimate and public nature of elections, protection and realization of the electoral rights and freedoms of citizens, candidates, political parties (coalitions), participating in elections, implementation of the constitutional principles of organization of the electoral process in law enforcement practices shall be assured by the judicial, administrative and other means of protection.
  7. Foreign nationals, stateless persons, foreign legal entities, international public movements, international organizations shall not be allowed to participate, directly or indirectly, in any activity conducive or obstructive to the preparation and conduct of elections to the bodies of state power and bodies of local self-government, other bodies of popular (national) representation, election to elective offices.

*Article 2 Universal Suffrage*

1. Observance of the principle of universal suffrage means the following:
  - (a) each citizen, who has attained to the age established by the constitution, laws, has the right to elect and be elected to the bodies of state power and bodies of local self-government, other bodies of popular (national) representation, elective offices, subject to the conditions and in the procedure provided by the constitution and laws;
  - (b) the right of a citizen to elect and be elected to the bodies of state power and bodies of local self-government, other bodies of popular (national) representation, elective offices is realizable irrespective of any discriminatory restrictions on account of sex, language, religion or faith, political or other convictions, ethnic or social origin, national minority or ethnic group to which the citizen belongs; property status; or other similar circumstances;
  - (c) each citizen, residing or staying during the period of the national elections outside the territory of his state, has the same electoral rights as the other citizens of his state. Diplomatic and consular missions, their officials shall assist citizens in the realization of their electoral rights and freedoms;

- (d) each citizen has a guaranteed right to receive information about his inclusion on a voters list, correct this information so as to ensure the completeness and accuracy of this list, and appeal, in the procedure established by law, the refusal to include him on a voter's list.

### *Article 3 Equal Suffrage*

1. Observance of the principle of equal suffrage means the following:
  - (a) each voter has one vote or the same number of votes as other voters; he may exercise his right to vote equally with other voters and his vote (votes) is (are) accorded equivalent weight to that of other voter's and the weight of a voter's vote (votes) must not be affected by the electoral system used in the state;
  - (b) when voting is conducted in single-seat and/or multi-seat electoral districts these districts are formed on an equal basis, so that voting results should reflect the will of the voters most accurately and fully. The criterion of an equal basis may be the approximate equality of single-seat electoral districts with regard to the number of voters or the approximate equality of the number of voters per deputy mandate in multi-seat electoral districts. Deviations from the average representation quota may be allowed for hard-to-reach and remote localities, areas of compact settlement of small indigenous peoples and other national minorities and ethnic groups.
2. Each voter shall have the right to equal and free access to the electoral precinct and to the polling station for exercising his right to participate in free voting.
3. A citizen may be given a possibility to exercise his right to participate in voting through organization of early voting, voting outside the polling station or by means of other voting procedures ensuring the maximum convenience for voters.
4. Each citizen shall have equal legal opportunities for self-nomination in elections.
5. Restrictions connected with special requirements to participation in an election campaign of candidates running for election to an elective office for a new term shall be regulated by the constitution and laws. Compliance with the established restrictions must not prevent deputies, elective officials from exercising their powers and performing their obligations to voters.
6. Candidates shall not take advantage of their position or official status to gain election. The list of violations of the principle of equal suffrage and the responsibility for such violations shall be established by law.

### *Article 4 Direct Suffrage*

1. Observance of the principle of direct suffrage means that in elections citizens directly vote for the candidate and/or list of candidates or against the candidate, candidates, list of candidates or against all candidates and/or lists of candidates.

2. All deputy mandates of one of the chambers of the national legislative body shall be an object of free competition between candidates and/or lists of candidates in the course of general elections.
3. If a national legislative body consists of two chambers and some of or all mandates of the other chamber of this body are not an object of free competition between candidates and/or lists of candidates in the course of general elections, this does not contradict the provisions of this Convention.

*Article 5 Secret Voting*

1. Observance of the principle of secret voting means exclusion of any control whatsoever over the expression of the will of voters, assurance of equal conditions for making a free choice.
2. The rights of citizens to secret voting shall not be restricted in any way and by anything.
3. Elections shall be held with the use of a secret voting procedure.
4. Election bodies shall ensure observance of conditions, established by the constitution, law, other legal acts, which make it impossible for anyone to control or watch ballots being marked by voters at the place of secret voting, or do any acts violating the secrecy of voting.

*Article 6 Periodic and Mandatory Elections*

1. Election of elective bodies of state power, bodies of local self-government, other bodies of popular (national) representation, elective officials shall be mandatory and shall be held within the periods established by the constitution and laws.
2. Elections shall be held at the intervals established by the constitution, laws so that the basis for the elective bodies of state power, bodies of local self-government, other bodies of popular (national) representation, elective officials be always formed by the free will of the people.
3. The period of powers of elective bodies and officials shall be established by the constitution and laws and may be changed only in accordance with the procedure established thereby.
4. No actions shall be taken or calls made which incite, or aim to incite, disruption, cancellation or postponement of elections, electoral actions and procedures announced in accordance with the constitution, laws.
5. In the conditions of a state of emergency or martial law imposed for safeguarding the security of citizens and protecting the constitutional system in accordance with the constitution, restrictions may be imposed by laws on the rights and freedoms, with the indication of their scope and period and elections may be postponed.

*Article 7 Open and Public Elections*

1. Elections shall be prepared and conducted openly and publicly.
2. Decisions of bodies of state power, bodies of local self-government election bodies, which are adopted within the scope of their competence and relate to the calling, preparation and conduct of elections, assurance and protection of the electoral rights and freedoms of a citizen, shall be officially published or made known to the general public by other methods, in the procedure and within the period established by laws.
3. Legal acts and decisions affecting the electoral rights, freedoms and obligations of a citizen shall not be applicable unless they have been officially published for general information.
4. Within the period established by the election laws the election body shall officially publish the information about the voting returns and elected persons, in its organ or other media outlets.
5. Observance of the principle of open and public elections must ensure creation of legal conditions for public and international monitoring of elections.

*Article 8 Free Elections*

1. The supremacy of the constitution shall be the basis for holding free elections and for making it possible for citizens and other participants in the electoral process to choose, without any influence, coercion, threat of coercion or any other unlawful inducement, whether to participate or not to participate in elections in the forms allowed by law and by lawful methods, without fear of any punishment or mistreatment regardless of voting returns and election results, as well as the basis for the legal and other guarantees of strict observance of the principle of free elections in the course of the entire electoral process.
2. Participation of a citizen in elections shall be free and voluntary. No one shall compel him to vote for or against any definite candidate (candidates), any definite list of candidates and no one shall compel him to participate or not to participate in elections or prevent him from freely expressing his will. No voters shall be compelled by anyone to declare how he intends to vote or has voted for a candidate (candidates), lists of candidates.
3. Candidates, political parties (coalitions) and other participants in the electoral process shall bear responsibility to the public and the state in accordance with the constitution and law. No candidate, no political party (coalition), no other public association or public organization shall use the methods of psychic, physical, religious compulsion or calls for violence or threats of violence or any other forms of coercion.

*Article 9 Genuine Elections*

1. Genuine elections shall ensure determination of a freely expressed will of the people and its direct realization.
2. Genuine elections shall make it possible for voters to elect candidates on the basis of the constitution and laws. In genuine elections there is real political pluralism, ideological diversity and a multi-party system realized through the functioning of political parties whose lawful activity is under the legal protection of the state.
3. In genuine elections voters shall have free access to the information about candidates, lists of candidates, political parties (coalitions) electoral process, and candidates, political parties (coalitions) – to the mass information and telecommunications media.
4. Elections shall be prepared and conducted with the use of the official language or official languages of the state and, in cases and in the procedure provided by laws, also with the use of official languages of parts of the territory of the state, languages of peoples and nationalities, national minorities and ethnic groups on the territories of their compact settlement.
5. Elections shall be called and electoral actions and procedures carried out in the procedure and within the periods which allow candidates, political parties (coalitions) and other participants in the electoral process to organize a full-fledged election propaganda campaign.
6. In genuine elections equal and fair legal conditions shall be ensured for registration of candidates, lists of candidates and political parties (coalitions). Requirements to registration shall be clear and free from any conditions which may serve as a basis for discriminatory privileges or restrictions. Arbitrary or discriminatory use of the rules for registration of candidates, lists of candidates and political parties (coalitions) shall not be allowed.
7. Each candidate and each political party (coalition) participating in elections shall accept the voting returns and results of democratic elections and shall have a possibility to appeal, in courts and/or other bodies, voting returns and election results which violate the electoral rights and freedoms of a citizen, in the procedure and within the period established by laws, international obligations of the state.
8. Persons and bodies falsifying vote count, voting returns and election results, interfering with free realization by a citizen of his electoral rights and freedoms, including in the form of a boycott or calls for a boycott of elections, refusal to perform electoral procedures or electoral actions, shall be prosecutable under law.

*Article 10 Fair Elections*

1. Observance of the principle of fair elections must ensure equal legal conditions to all participants in the electoral process.

2. Fair elections shall guarantee:
  - (a) universal and equal suffrage;
  - (b) equal possibilities for participation of each candidate or each political party (coalition) in an election campaign, including access to the mass information and telecommunications media;
  - (c) fair and public funding of elections, election campaigns of candidates, political parties (coalitions);
  - (d) honest voting and vote counting; rapid provision of full information about voting results and official publication of all election results;
  - (e) organization of the electoral process by impartial election bodies, working openly and publicly under effective public and international observation;
  - (f) prompt and effective adjudication of complaints about violation of electoral rights and freedoms of citizens, candidates, political parties (coalitions) to be performed by courts and other duly authorized bodies within the time frame of the appropriate stages of the electoral process, assurance of a citizen's right to apply to international judicial bodies for protection and restoration of his electoral rights and freedoms, in a procedure established by the norms of international law.
3. Candidates may be nominated by voters of the appropriate electoral district or may nominate themselves. Candidates and/or lists of candidates may be also nominated by political parties (coalitions), other public associations and other entities which have the right to nominate candidates and/or lists of candidates under the constitution, laws.

*Article 11 Conduct of Elections by Election Bodies (Election Commissions)*

1. Preparation and conduct of elections, assurance and protection of electoral rights and freedoms of citizens and control over their observance shall be entrusted to election bodies (election commissions), with their status, competence and powers being established by the constitution, legislative acts.
2. No other structures (bodies, organizations) shall be formed or allowed to operate which supersede election bodies or perform, fully or partially, their functions, or obstruct or unlawfully interfere with their lawful activity, or appropriate their status and powers.
3. The procedure for the formation of election bodies, their powers, organization of their activity as well as the procedure, grounds, and time for dissolution of an election body or early termination of the powers of its member shall be established by law. The procedure and time of early termination of powers of members of an election body established by law and appointment by a duly authorized body of a new member of an election body to fill the vacancy shall not prevent the election body from exercising its powers, shall not affect the

- integrity of the electoral process, delay the performance of electoral actions, violate the electoral rights and freedoms of citizens.
4. The Parties admit that a candidate, a political party (coalition), which nominated a list of candidates, may be granted the right to appoint, in a procedure established by law, one non-voting member to the election body which registered the candidate (list of candidates) and to the lower election bodies for representing this candidate, political party (coalition).
  5. A non-voting member of an election body may speak at meetings of the election bodies, make proposals on the questions within the scope of competence of the election body, ask that these questions be put to the vote, submit complaints against actions (omissions) of the election body to the higher election body or to a court, exercise other powers provided by law.
  6. Decisions taken by election bodies within the scope of their competence shall be binding on the bodies of executive power, state institutions, bodies of local self-government, political parties and other public associations, their authorized representatives, organizations, officials, voters, lower election bodies, other persons and organizations indicated in laws.
  7. The Parties shall, by their laws, impose an obligation on state bodies, bodies of local self-government, institutions, organizations and on their officials to assist election bodies in the exercise of their powers and shall oblige TV and radio companies and print media indicated in the election laws to provide, respectively, free air time and free space for information of voters about the election, progress of the election campaign.

*Article 12 Funding of Elections and Election Campaigns of Candidates, Political Parties (Coalitions)*

1. The activities connected with elections shall be funded from the budget.
2. In cases and in the procedure provided by the constitutions and laws the state shall, on a fair basis, allocate budget funds to candidates, political parties (coalitions), participating in elections and shall allow formation of an extra-budgetary fund at an election body or formation of their own funds to finance their election campaigns, using for these purposes their own money and voluntary donations from natural persons and/or national legal entities, in the amount and in the procedure established by laws. The use by candidates, political parties (coalitions) of any sums of money other than those contributed to the said funds shall be prohibited by and punishable under laws.
3. All foreign donations, including those from foreign natural persons and legal entities, to candidates, political parties (coalitions), participating in elections, to any other public associations, public organizations, which are directly, indirectly or otherwise associated with a candidate, political party (coalition) or

- are under their direct influence or control and facilitate, or assist in, the implementation of the aims of a political party (coalition), shall not be allowed.
4. The Parties shall ensure openness and transparency of all monetary donations to candidates, political parties (coalitions), participating in elections, so as to exclude donations prohibited by law being made to candidates or to political parties (coalitions), which nominated candidates (lists of candidates) in elections.
  5. Candidates, political parties (coalitions), participating in elections, shall, at the intervals established by law, submit to election bodies and other bodies, designated by law, the information and reports concerning receipt of all donations to their election funds, the donors, all expenditures made from these funds to finance their election campaign. Election bodies shall arrange for publication of such information and reports in the mass information and telecommunications media indicated in laws.
  6. A special body (bodies) may be organized to control or oversee compliance with the rules and procedures for campaign funding of candidates, political parties (coalitions), or appropriate powers shall be vested in officials or election bodies.
  7. A list of violations of the conditions and procedure for making donations, funding the activity of candidates, political parties (coalitions) as well as a list of measures to avert, prevent or stop infractions in election funding and funding of election campaigns of candidates, political parties (coalitions) shall be established by laws, other legal acts.

*Article 13 Informational Support of Elections and Election Campaigning by the State*

1. The Parties shall ensure the freedom of the search for, collection, dissemination of information about elections, candidates and impartial information coverage of elections in the mass information and telecommunications media.
2. The mass information and telecommunications media are called upon to keep the population informed about elections, nomination of candidates (list of candidates), their election programs (platforms), the progress of an election campaign, voting returns and election results operating within the framework of the constitution, laws, international obligations of the state.
3. In accordance with law members of the press representing mass information and telecommunications media may:
  - (a) attend meetings of election bodies to ensure publicity and openness of their activity;
  - (b) examine documents and materials of election bodies relating to voting returns or election results, make copies of such documents and materials or receive such copies from the election body, pass them on to the mass information and telecommunications media for publication;

- (c) attend public campaigning events and cover them in the mass media;
  - (d) be present at voting, vote counting, establishment of voting returns and election results.
4. Citizens, candidates, political parties (coalitions), which nominated a candidate and/or a list of candidates, other public associations, public organizations shall be guaranteed freedom of campaigning carried out in all forms allowed by law and by lawful methods, in the procedure and within periods established by laws, in the conditions of pluralism of opinions and absence of censorship.
  5. In accordance with the constitution, laws all candidates, political parties (coalitions) participating in elections, shall have an equal opportunity of access to the mass information and telecommunications media, including such access for presenting their election program (platform).
  6. In the course of election campaigning no abuse of the freedom of speech and freedom of mass information shall be allowed, including calls for a violent seizure of power, violent change of the constitutional system and violation of the territorial integrity of a state, warmongering, calls for terrorist or other violent acts inciting social, racial, national, ethnic, religious hatred and enmity.
  7. The mass information and telecommunication media of any one member state of this Convention shall not be used for participation in the campaigning when elections are held in the territory of another state.
  8. The list of violations of the conditions and procedure for campaigning carried out by candidates, political parties (coalitions) and infractions in the coverage of an election campaign by the mass media, which constitute grounds for bringing the violators to responsibility, shall be established by laws.

*Article 14 Status and Powers of National Observers*

1. Each candidate, each political party (coalition), other public associations (public organizations), each group of voters, other subjects of elections indicated in the constitution, laws may, in the procedure established by laws or by regulations of election bodies organizing the elections, appoint national observers who have the right to carry out observation on voting day, including the day of early voting, at polling stations.
2. The rights and obligations of national observers shall be defined by law.
3. National observers shall be granted the following rights:
  - (a) to examine election documents indicated in election laws; receive information about the number of voters on voter lists and the number of voters who took part in the voting, including early voting and voting outside the polling station;
  - (b) to be present at the polling station;
  - (c) to watch ballots being issued to voters;
  - (d) to be present at early voting, voting outside the polling station;

- (e) to watch vote counting under conditions in which the ballot counting procedure is observable;
  - (f) to watch an election body drawing up protocols of voting returns and election results and other documents; examine the protocol of voting returns drawn up by an election body, including the redrafted protocol; receive certified copies of the said protocols from the election body in cases and in the procedure provided by the national laws;
  - (g) to make proposals and comments to an election body concerning organization of voting;
  - (h) to appeal decisions and actions (omissions) of an election body and its members to the next higher election body or to a court.
4. In cases and in the procedure provided by laws the rights of a national observer may also be granted to agents of candidates, political parties (coalitions).
  5. Election bodies and/or other bodies and organizations may be authorized to organize education of national observers and other election participants in the fundamentals of democratic election technologies, national election laws, international election standards, assurance and protection of electoral rights and freedoms of a human being and citizen.

*Article 15 Status and Powers of International Observers*

1. The Parties reaffirm that the presence of international observers is conducive to openness and publicity of elections observance of international obligations of states. They shall strive to promote access of international observers to electoral processes at levels lower than the national level, down to municipal (local) elections.
2. The activity of international observers shall be regulated by the laws of the country where they work, this Convention, other international documents.
3. International observers shall be granted visas to enter a state in the procedure established by law and, if they have an appropriate invitation, shall be accredited by the relevant election body. Invitations may be extended by bodies duly authorized to do so by law, after official publication of the decision to call the elections. Proposals to extend invitations may be made by the bodies of the Commonwealth of Independent States established under its Charter.
4. The central election body shall issue international observers with an accreditation card of an established form. Such card shall entitle an international observer to carry out observation during the period of preparation and conduct of elections.
5. In the territory of the state where they stay international observers shall be under the patronage of this state. Election bodies, bodies of state power, bodies of local self-government shall, within the scope of their competence, render them necessary assistance.

6. International observers shall carry on their activity by themselves and independently. The activity of international observers shall be technically and financially supported by the organization which sent them and/or at their own expense.
7. International observers shall not use their status to engage in any activity unrelated to monitoring of the election campaign. The Parties reserve the right to withdraw accreditation of international observers who violate laws, universally accepted principles and norms of international law.
8. International observers may:
  - (a) have access to all documents (except for documents which affect the interests of national security) regulating the electoral process; receive from election bodies necessary information and copies of the election documents indicated in national laws;
  - (b) establish contacts with political parties, coalitions, candidates, private persons, officials of election bodies;
  - (c) freely visit all election precincts and polling stations, including on voting day;
  - (d) observe the progress of voting, vote counting and determination of voting returns under conditions in which the ballot counting procedure is observable;
  - (e) acquaint themselves with the results of adjudication of complaints (applications) and grievances relating to violation of election laws;
  - (f) inform officials of election bodies about their observations and recommendations without interfering in the work of election bodies;
  - (g) publicize their opinion about the preparation and conduct of elections after the end of voting;
  - (h) present to election officials, bodies of state power and relevant officials their conclusions concerning the results of monitoring of the elections.
9. International observers shall:
  - (a) observe the constitution and laws of the country where they work, the provisions of this Convention and other international documents;
  - (b) carry the accreditation card of an international observer, issued in accordance with the procedure established by the country where they work, and produce it whenever requested by election officials;
  - (c) when performing their functions abide by such principles as political neutrality, impartiality, non-expression of any preferences or opinions with regard to election bodies, bodies of state power and other bodies, officials, participants in the electoral process;
  - (d) never interfere in the electoral process;
  - (e) base their conclusions and observations on factual material.

*Article 16 Complaints About, and Responsibility for, Violation of Electoral Rights and Freedoms of Citizens*

1. In the event of violation of the standards of democratic elections, electoral rights and freedoms of citizens, proclaimed in this Convention, and violation of election laws the injured person or persons shall have the right and possibility to complain about the violation to, and have the violated rights restored by, courts and, in cases and in the procedure provided by laws, election bodies.
2. Persons guilty of unlawful actions (omissions) shall bear responsibility in accordance with laws.

*Article 17 Electoral Documentation*

1. Ballots, other electoral documents, including documents of bodies of state power, bodies of local self-government, election bodies, relating to the conduct of elections shall be drawn up (published) in the official language of the state and official languages of the parts of the territory of the state where elections are held and, in the procedure established by law, in the languages of peoples and nationalities, national minorities and ethnic groups in the territories of their compact settlement.
2. Electoral documents used to determine voting returns and election results shall be treated as documents of strict accountability and their degree of protection shall be established by laws.

*Article 18 Measures Not to Be Considered Discriminatory*

1. The electoral rights and freedoms of a citizen set out above may be restricted by the constitution, laws without being considered discriminatory if they provide for:
  - (a) special measures taken to ensure an adequate representation of some part of a country's population, in particular national minorities and ethnic groups, which, owing to political, economic, religious, social, historical and cultural conditions, are unable to enjoy the political and electoral rights and freedoms on an equitable basis with the rest of the population.
  - (b) restriction of the right to elect and be elected in respect of citizens pronounced to be incapable by a court, persons kept in places of confinement under a court sentence;
2. Restrictions on nomination of candidates and lists of candidates, creation and activity of political parties (coalitions), electoral rights and freedoms of citizens may be imposed in the interests of protection of the constitutional system, national security, maintenance of public order, protection of public well-being and morals, civil rights and freedoms. Such restrictions shall conform to the international obligations of a state

3. In their wish to democratize the electoral process the Parties proceed from the fact that the existing restrictions on, or advantages with regard to, the realization of electoral rights and freedoms, which are provided by the constitution, laws and do not run counter to the international obligations of a state, shall be abolished as proper national conditions appear, so as to ensure that participants in the electoral process have equal legal conditions for participation in elections.

*Article 19 Obligations of Member States of the Convention*

1. The Parties shall take legislative and other measures to strengthen the guarantees of electoral rights and freedoms for the preparation and conduct of democratic elections and realization of the provisions of this Convention. The standards of democratic elections, electoral rights and freedoms, proclaimed in this Convention may be guaranteed through their inclusion in the constitution, legislative acts.
2. The Parties undertake:
  - (a) to guarantee protection of the democratic principles and norms of the election laws, the democratic nature of elections, free expression by citizens of their will in elections, reasonable requirements to declaring elections to have taken place and be valid and legitimate;
  - (b) to take the necessary measures to ensure that the entire election legislation should be adopted by the national legislative body and that the legal standards for the conduct of elections should not be established by the acts of the bodies of executive power;
  - (c) to strive to ensure that deputy mandates of the other chamber of the national legislative body should be, fully or partially, an object of free competition of candidates and/or lists of candidates in the course of the direct general elections, in the procedure established by laws;
  - (d) to work for the creation of a system of legal, organizational, informational, guarantees of the electoral rights and freedoms of citizens in the preparation and conduct of elections of all levels; take necessary legislative measures to guarantee women fair and real possibilities, equal to those of men, for exercising the right to elect and be elected to elective bodies and elective offices, both personally and as members of political parties (coalitions) in accordance with the conditions and procedures established by the constitution, laws; create additional guarantees and conditions for participation in elections of persons with physical infirmities (disabled persons, etc);
  - (e) to carry out registration of voters on the basis of a legislatively established non-discriminatory and effective procedure providing for such registration criteria as age, citizenship, residence, availability of the main document certifying the identity of a citizen;

- (f) to establish legislatively the responsibility of persons, furnishing information about voters, for the accuracy, fullness and timely presentation of such information, for ensuring confidentiality of the personal data as prescribed by law;
- (g) to facilitate formation of political parties and their free legitimate activity; legislatively regulate funding of political parties and the electoral process; ensure that the law and the national policy should provide for separation of party and state and that election campaigns should be conducted in the atmosphere of freedom and honesty allowing parties and candidates freely to present their political views and opinions, their election programs (platforms) and allowing voters to get acquainted with and discuss them and vote “for” or “against” freely, without any fear of punishment or any kind of persecution;
- (h) to adopt measures guaranteeing impartial coverage of the election campaign by the mass media, including in the Internet, and making it impossible to erect legal and administrative barriers preventing political parties and candidates from gaining access to the mass media on a non-discriminatory basis; form a unified data bank of public polls connected with elections from which information must be available for examination or copying to participants in the electoral process and to international observers upon their request; introduce new information technologies, ensuring openness of elections and raising the trust of voters in voting returns and election results;
- (i) to adopt national programs of civic education and participate in drafting and adoption of similar international programs; make arrangements for acquainting citizens and other election participants with, and educating them in, electoral procedures and rules, for raising their legal culture and for improving professional qualifications of election officials;
- (j) to ensure creation of independent impartial election bodies, which organize the conduct of democratic, free, fair, genuine and periodic elections in accordance with laws and international obligations of the state;
- (k) to ensure that candidates, who polled the required number of votes established by law, could properly assume office and remain in office until the period of their powers expires or their powers are terminated in some other manner regulated by law;
- (l) to take legislative measures to regulate the list of violations of the electoral rights and freedoms of citizens, as well as the grounds and procedure for bringing to criminal, administrative and other responsibility the persons who use coercion, fraud, threats, forgery or other methods to prevent free exercise by a citizen of the right to elect and be elected, realization of other electoral rights and freedoms laid down by the constitutions and laws;

- (m) to facilitate, for the exchange of information and joint use, the creation of a unified data bank containing information about national election laws, participants in the electoral process (with due regard the confidential nature of personal data), law enforcement and judicial practices, legislative proposals for the improvement of the election system, as well as other information relating to the organization of the electoral process;
- (n) to promote cooperation between the election bodies of the member states of this Convention, including the creation and/or expansion of the powers of the existing inter-state associations of election bodies.

*Article 20 Rights Granted Irrespective of this Convention*

1. Nothing in this Convention shall prevent the states from the fulfillment of their international obligations relating to the electoral rights and freedoms of citizens assumed under international treaties and agreements to which they are a party.
2. The exercise of the rights set out in this Convention shall not be detrimental to the realization of universally accepted human rights and fundamental freedoms by all persons.
3. Nothing in this Convention may be construed as allowing any activity which runs counter to universally accepted human rights and fundamental freedoms by all persons the purposes and principles of the Charter of the Commonwealth of Independent States.

*Article 21 Status of the International Electoral Council*

The Parties recognize the need to establish an Inter-State Electoral Council on the basis of the election bodies of the member states of this Convention, which will be called upon to facilitate observation of elections in the member states of this Convention.

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257. Entry into force 11 August 1998.

258. Entry into force in November 2003.

## 6.14 Matrix on the Status of Ratification of Instruments within the Commonwealth of Independent States

	Human Rights Convention	Electoral Convention
Armenia	§ <sup>259</sup>	•
Azerbaijan		§ <sup>260</sup>
Belarus	•	§ <sup>261</sup>
Georgia	§ <sup>262</sup>	§ <sup>263</sup>
Kazakhstan		§ <sup>264</sup>
Kyrgyzstan	•	•
Republic of Moldova	§ <sup>265</sup>	•
Russian Federation	•	•
Tajikistan	•	•
Turkmenistan		§ <sup>266</sup>
Ukraine		§ <sup>267</sup>
Uzbekistan		§ <sup>268</sup>

259. Signed 26 May 1995.

260. Signed 7 October 2002.

261. Signed 7 October 2002.

262. Signed 26 May 1995.

263. Signed 7 October 2002.

264. Signed 7 October 2002.

265. Signed 26 May 1995.

266. Signed 7 October 2002.

267. Signed 7 October 2002.

268. Signed 7 October 2002.

## 7. Political Commitments

### The League of Arab States (LAS)

The League of Arab States was founded in Cairo in 1945 and is a voluntary association of countries whose peoples are mainly Arabic speaking. Its stated purposes are to strengthen ties among the member states, coordinate their policies in the fields of politics, economics, culture and social programmes, and promote their common interests. From only seven founding members, the League has grown to a membership of 22, including Palestine, which is considered an independent state. To date, there have been no ratifications of the Arab Charter on Human Rights.

#### 7.1 Arab Charter on Human Rights (1994)

##### *Article 19*

The people are the source of authority and every citizen of full legal age shall have the right of political participation, which he shall exercise in accordance with the law.

##### *Article 28*

All citizens have the right to freedom of peaceful assembly and association. No restrictions shall be placed on the exercise of this right unless so required by the exigencies of national security, public safety or the need to protect the rights and freedoms of others.

## The Organization of the Islamic Conference (OIC)

The Organization of the Islamic Conference (OIC) was established in September 1969 and comprises 57 states dispersed over four continents, whose population is for the most part Islamic. The Organisation's aims include promoting cooperation among its member states in the political, economic, social, cultural and scientific fields, safeguarding Islamic holy places and working towards eradicating racial discrimination and colonialism.

### 7.2 Cairo Declaration on Human Rights in Islam (1990)

#### *Article 22*

(a) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'ah.

[...]

(c) Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical Values or disintegrate, corrupt or harm society or weaken its faith.

(d) It is not permitted to excite nationalistic or doctrinal hatred or to do anything that may be an incitement to any form or racial discrimination.

#### *Article 23*

[...]

(b) Everyone shall have the right to participate, directly or indirectly in the administration of his country's public affairs. He shall also have the right to assume public office in accordance with the provisions of Shari'ah.

#### *Article 24*

All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah.

#### *Article 25*

The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration.

## The Commonwealth

Formerly known as the British Commonwealth of Nations, the Commonwealth is a loose association of former British colonies, dependencies and other territories – and Mozambique, which has no historical ties to Britain. The British monarch is the Head of the Commonwealth. The Commonwealth has no constitution or charter, but members commit themselves to the statements of beliefs set out by Heads of Government. The fundamental political values underpinning the Commonwealth include democracy and good governance, respect for human rights and gender equality, the rule of law, and sustainable economic and social development.

### 7.3 The Harare Commonwealth Declaration (1991)

4. We believe in [...] equal rights for all citizens regardless of gender, race, colour, creed or political belief, and in the individual's inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives; [...]
9. [...] we pledge the Commonwealth and our countries to work with renewed vigour, concentrating especially in the following areas:
  - the protection and promotion of the fundamental political values of the Commonwealth:
  - democracy, democratic processes and institutions which reflect national circumstances;
  - fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, creed or political belief;
  - equality for women, so that they may exercise their full and equal rights.
 [...]

### 7.4 The Lusaka Declaration of the Commonwealth on Racism and Racial Prejudice (1979)

[...]

We affirm that there should be no discrimination based on race, colour, sex, descent or national or ethnic origin in the acquisition or exercise of the right to vote; [...]

## The Organization for Security and Co-operation in Europe (OSCE)

The Organization for Security and Co-operation in Europe (OSCE) was founded in 1972 under the name of the Conference for Security and Co-operation in Europe, as a multilateral forum for dialogue and negotiation between East and West. Its name was changed in 1994. All participating states have equal status and are represented on the basis of common interest and common OSCE commitments. Decisions are reached by consensus, except in the case of “clear, gross and uncorrected violations” of OSCE commitments by a member country. The OSCE’s Office for Democratic Institutions and Human Rights (ODIHR) is located in Warsaw and is responsible for the promotion of human rights and democracy in the OSCE area. It serves as the OSCE’s focal point for all election-related matters, including election observation, technical assistance, and the review of electoral legislation. OSCE commitments require participating states to invite other participating states to observe their elections, and the ODIHR provides the methodology and co-ordination framework for such observation.

### 7.5 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE (1990)

- (3) They [participating states] reaffirm that democracy is an inherent element of the rule of law. They recognize the importance of pluralism with regard to political organizations.
- (5) They solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:
  - (5.1) free elections that will be held at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives;
  - (5.2) a form of government that is representative in character, in which the executive is accountable to the elected legislature or the electorate;
  - [...]
  - (5.4) a clear separation between the State and political parties; in particular, political parties will not be merged with the State;
  - [...]
- (6) The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the author-

ity and legitimacy of all government. The participating States will accordingly respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes. They recognize their responsibility to defend and protect, in accordance with their laws, their international human rights obligations and their international commitments, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.

- (7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will
- (7.1) hold free elections at reasonable intervals, as established by law;
  - (7.2) permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;
  - (7.3) guarantee universal and equal suffrage to adult citizens;
  - (7.4) ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public;
  - (7.5) respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;
  - (7.6) respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;
  - (7.7) ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;
  - (7.8) provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;
  - (7.9) ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a

manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

- (10) In reaffirming their commitment to ensure effectively the rights of the individual to know and act upon human rights and fundamental freedoms, and to contribute actively, individually or in association with others, to their promotion and protection, the participating States express their commitment to
- (10.1) respect the right of everyone, individually or in association with others, to seek, receive and impart freely views and information on human rights and fundamental freedoms, including the rights to disseminate and publish such views and information;

[...]

- (10.3) ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups;

[...]

## 7.6 Charter of Paris for a New Europe (1990)

[...]

Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its foundation respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person. [...]

Everyone also has the right: [...] to participate in free and fair elections, [...].

## 7.7 Document of the Moscow Meeting of the Conference on the Human Dimension of the OSCE (1991)

- (40) The participating States recognize that full and true equality between men and women is a fundamental aspect of a just and democratic society based on the rule of law. In this context they will [...]

[...]

- (40.8) encourage and promote equal opportunity for full participation by women in all aspects of political and public life, in decision-making processes and in international co-operation in general;

[...]

## 7.8 Istanbul Summit Declaration (1999)

26. With a large number of elections ahead of us, we are committed to these being free and fair, and in accordance with OSCE principles and commitments. This is the only way in which there can be a stable basis for democratic development. We appreciate the role of the ODIHR in assisting countries to develop electoral legislation in keeping with OSCE principles and commitments, and we agree to follow up promptly ODIHR's election assessments and recommendations. We are committed to secure the full right of persons belonging to minorities to vote and to facilitate the right of refugees to participate in elections held in their countries of origin. We pledge to ensure fair competition among candidates as well as parties, including through their access to the media and respect for the right of assembly.

## The European Union (EU)

The European Union is a treaty-based, institutional framework that defines and manages economic and political cooperation among its European member states. It was established by six countries in 1951 and 1957 as an economic community and emerged as the European Union in 1992. In January 2007, the EU expanded its membership to become a union of 27 countries.

### 7.9 Charter of Fundamental Rights of the European Union (2000)

#### *Article 11 Freedom of Expression and Information*

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. The freedom and pluralism of the media shall be respected.

#### *Article 12 Freedom of Assembly and of Association*

1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters.
2. Political parties at Union level contribute to expressing the political will of the citizens of the Union.

#### *Article 39 Right to vote and to stand as a candidate at elections to the European Parliament*

1. Every citizen of the Union has the right to vote and to stand as a candidate at elections to the European Parliament in the Member State in which he or she resides, under the same conditions as nationals of that State.
2. Members of the European Parliament shall be elected by direct universal suffrage in a free and secret ballot.

#### *Article 40 Right to vote and to stand as a candidate at municipal elections*

Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State.

## 7.10 Commission Communication on EU Election Assistance and Observation (2000)

Elections do not equate to democracy but they are an essential step in the democratisation process and an important element in the full enjoyment of a wide range of human rights. Elections are human rights events for two reasons. First because they give voice to the political will of the people. Secondly because to be truly free and fair they must be conducted in an atmosphere which is respectful of human rights.

[...]

The development co-operation policy of the European Community is centred on human beings and is closely linked to the enjoyment of their fundamental rights and freedoms as well as on the recognition and application of democratic principles, the consolidation of the rule of law and good governance. In the case of elections, good governance refers to an appropriate legislative and regulatory framework, as well as to a transparent and accountable election administration – including independent supervision and monitoring – that ensures the respect for the rule of law. An informed people, owning the electoral process, is the key factor in this context.

## 7.11 Communication from the Commission to the Council and the European Parliament – The European Union’s Role in Promoting Human Rights and Democratisation in Third Countries (2001)

The Commission’s action in the field of external relations will be guided by compliance with the rights and principles contained in the EU Charter of Fundamental Rights [...].

## 7.12 Cotonou Agreement (Between EU and ACP Partner Countries) (2000)<sup>269</sup>

*Article 9: Essential Elements and Fundamental Element*

1. Cooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights.

Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.

2. The Parties refer to their international obligations and commitments concerning respect for human rights. They reiterate their deep attachment to human dignity and human rights, which are legitimate aspirations of individuals and peoples. Human rights are universal, indivisible and inter-related. The Parties undertake to promote and protect all fundamental freedoms and human rights, be they civil and political, or economic, social and cultural. In this context, the Parties reaffirm the equality of men and women.

The Parties reaffirm that democratisation, development and the protection of fundamental freedoms and human rights are interrelated and mutually reinforcing. Democratic principles are universally recognised principles underpinning the organisation of the State to ensure the legitimacy of its authority, the legality of its actions reflected in its constitutional, legislative and regulatory system, and the existence of participatory mechanisms. On the basis of universally recognised principles, each country develops its democratic culture.

The structure of government and the prerogatives of the different powers shall be founded on rule of law, which shall entail in particular effective and accessible means of legal redress, an independent legal system guaranteeing equality before the law and an executive that is fully subject to the law.

Respect for human rights, democratic principles and the rule of law, which underpin the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute the essential elements of this Agreement.

3. In the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. It entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in the management and distribution of resources and capacity building for elaborating and implementing measures aiming in particular at preventing and combating corruption.

Good governance, which underpins the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute a fundamental element of this Agreement. The Parties agree that only serious cases of corruption, including acts of bribery leading to such corruption, as defined in Article 97 constitute a violation of that element.

4. The Partnership shall actively support the promotion of human rights, processes of democratisation, consolidation of the rule of law, and good governance.

These areas will be an important subject for the political dialogue. In the context of this dialogue, the Parties shall attach particular importance to the changes underway and to the continuity of the progress achieved. This regu-

lar assessment shall take into account each country's economic, social, cultural and historical context.

These areas will also be a focus of support for development strategies. The Community shall provide support for political, institutional and legal reforms and for building the capacity of public and private actors and civil society in the framework of strategies agreed jointly between the State concerned and the Community.

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269. Although placed in this context of political commitments, it should be underlined that the Cotonou Agreement is a binding treaty under international law not only for the EU but also for the ACP Partner Countries, sustaining their commitment to international human rights, including the right to participation and the different election elements.

## 8. Other Initiatives

### The Inter-Parliamentary Union (IPU)

The Inter-Parliamentary Union was established in 1889 and is the international organization of parliaments of sovereign states. Over 130 national parliaments are currently members of the IPU. Its aims include contributing to the defence and promotion of human rights and fostering contacts among parliaments and parliamentarians.

#### 8.1 Declaration on Criteria for Free and Fair Elections (1994)

##### 1. *Free and Fair Elections*

In any State the authority of the government can only derive from the will of the people as expressed in genuine, free and fair elections held at regular intervals on the basis of universal, equal and secret suffrage.

##### 2. *Voting and Elections Rights*

- (1) Every adult citizen has the right to vote in elections, on a non-discriminatory basis.
- (2) Every adult citizen has the right to access to an effective, impartial and non-discriminatory procedure for the registration of voters.
- (3) No eligible citizen shall be denied the right to vote or disqualified from registration as a voter, otherwise than in accordance with objectively verifiable criteria prescribed by law, and provided that such measures are consistent with the State's obligations under international law.
- (4) Every individual who is denied the right to vote or to be registered as a voter shall be entitled to appeal to a jurisdiction competent to review such decisions and to correct errors promptly and effectively.

- (5) Every voter has the right to equal and effective access to a polling station in order to exercise his or her right to vote.
- (6) Every voter is entitled to exercise his or her right equally with others and to have his or her vote accorded equivalent weight to that of others.
- (7) The right to vote in secret is absolute and shall not be restricted in any manner whatsoever.

### 3. *Candidature, Party and Campaign Rights and Responsibilities*

- (1) Everyone has the right to take part in the government of their country and shall have an equal opportunity to become a candidate for election. The criteria for participation in government shall be determined in accordance with national constitutions and laws and shall not be inconsistent with the State's international obligations.
- (2) Everyone has the right to join, or together with others to establish, a political party or organization for the purpose of competing in an election.
- (3) Everyone individually and together with others has the right:
  - To express political opinions without interference;
  - To seek, receive and impart information and to make an informed choice;
  - To move freely within the country in order to campaign for election;
  - To campaign on an equal basis with other political parties, including the party forming the existing government.
- (4) Every candidate for election and every political party shall have an equal opportunity of access to the media, particularly the mass communications media, in order to put forward their political views.
- (5) The right of candidates to security with respect to their lives and property shall be recognized and protected.
- (6) Every individual and every political party has the right to the protection of the law and to a remedy for violation of political and electoral rights.
- (7) The above rights may only be subject to such restrictions of an exceptional nature which are in accordance with law and reasonably necessary in a democratic society in the interests of national security or public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others and provided they are consistent with States' obligations under international law. Permissible restrictions on candidature, the creation and activity of political parties and campaign rights shall not be applied so as to violate the principle of non-discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- (8) Every individual or political party whose candidature, party or campaign rights are denied or restricted shall be entitled to appeal to a jurisdiction competent to review such decisions and to correct errors promptly and effectively.
- (9) Candidature, party and campaign rights carry responsibilities to the community. In particular, no candidate or political party shall engage in violence.
- (10) Every candidate and political party competing in an election shall respect the rights and freedoms of others.
- (11) Every candidate and political party competing in an election shall accept the outcome of a free and fair election.

#### 4. *The Rights and Responsibilities of States*

- (1) States should take the necessary legislative steps and other measures, in accordance with their constitutional processes, to guarantee the rights and institutional framework for periodic and genuine, free and fair elections, in accordance with their obligations under international law. In particular, States should:
  - Establish an effective, impartial and non-discriminatory procedure for the registration of voters;
  - Establish clear criteria for the registration of voters, such as age, citizenship and residence, and ensure that such provisions are applied without distinction of any kind;
  - Provide for the formation and free functioning of political parties, possibly regulate the funding of political parties and electoral campaigns, ensure the separation of party and State, and establish the conditions for competition in legislative elections on an equitable basis;
  - Initiate or facilitate national programmes of civic education, to ensure that the population are familiar with election procedures and issues.
- (2) In addition, States should take the necessary policy and institutional steps to ensure the progressive achievement and consolidation of democratic goals, including through the establishment of a neutral, impartial or balanced mechanism for the management of elections. In so doing, they should, among other matters:
  - Ensure that those responsible for the various aspects of the election are trained and act impartially, and that coherent voting procedures are established and made known to the voting public;
  - Ensure the registration of voters, updating of electoral rolls and balloting procedures, with the assistance of national and international observers as appropriate;

- Encourage parties, candidates and the media to accept and adopt a Code of Conduct to govern the election campaign and the polling period;
  - Ensure the integrity of the ballot through appropriate measures to prevent multiple voting or voting by those not entitled thereto;
  - Ensure the integrity of the process for counting votes.
- (3) States shall respect and ensure the human rights of all individuals within their territory and subject to their jurisdiction. In time of elections, the State and its organs should therefore ensure:
- That freedom of movement, assembly, association and expression are respected, particularly in the context of political rallies and meetings;
  - That parties and candidates are free to communicate their views to the electorate, and that they enjoy equality of access to State and public-service media;
  - That the necessary steps are taken to guarantee non-partisan coverage in State and public-service media.
- (4) In order that elections shall be fair, States should take the necessary measures to ensure that parties and candidates enjoy reasonable opportunities to present their electoral platform.
- (5) States should take all necessary and appropriate measures to ensure that the principle of the secret ballot is respected, and that voters are able to cast their ballots freely, without fear or intimidation.
- (6) Furthermore, State authorities should ensure that the ballot is conducted so as to avoid fraud or other illegality, that the security and the integrity of the process is maintained, and that ballot counting is undertaken by trained personnel, subject to monitoring and/or impartial verification.
- (7) States should take all necessary and appropriate measures to ensure the transparency of the entire electoral process including, for example, through the presence of party agents and duly accredited observers.
- (8) States should take the necessary measures to ensure that parties, candidates and supporters enjoy equal security, and that State authorities take the necessary steps to prevent electoral violence.
- (9) States should ensure that violations of human rights and complaints relating to the electoral process are determined promptly within the timeframe of the electoral process and effectively by an independent and impartial authority, such as an electoral commission or the courts.

## The European Commission on Democracy through Law (Venice Commission)

The Venice Commission is composed of independent experts who have achieved international fame through their experience in democratic institutions or by their contribution to the enhancement of law and political science”. The members are mainly senior academics, particularly in the fields of constitutional or international law, supreme or constitutional court judges, national members of parliament and senior public officials. The Commission’s primary task is to assist and advise individual countries in constitutional matters.

### 8.2 Guidelines on Elections (2002)

#### I. *Principles of Europe’s electoral heritage*

The five principles underlying Europe’s electoral heritage are universal, equal, free, secret and direct suffrage. Furthermore, elections must be held at regular intervals.

#### 1. *Universal suffrage*

##### 1.1 Rule and exceptions

Universal suffrage means in principle that all human beings have the right to vote and to stand for election. This right may, however, and indeed should, be subject to certain conditions:

##### a) Age

- i. The right to vote and to be elected must be subject to a minimum age.
- ii. The right to vote must be acquired, at the latest, at the age of majority.
- iii. The right to stand for election should preferably be acquired at the same age as the right to vote and in any case not later than the age of 25, except where there are specific qualifying ages for certain offices (e.g. member of the upper house of parliament, Head of State).

##### b) Nationality

- i. A nationality requirement may apply.
- ii. However, it would be advisable for foreigners to be allowed to vote in local elections after a certain period of residence.

##### c) Residence

- i. A residence requirement may be imposed.
- ii. Residence in this case means habitual residence.

- iii. A length of residence requirement may be imposed on nationals solely for local or regional elections.
  - iv. The requisite period of residence should not exceed six months; a longer period may be required only to protect national minorities.
  - v. The right to vote and to be elected may be accorded to citizens residing abroad.
- d) Deprivation of the right to vote and to be elected
- i. Provision may be made for depriving individuals of their right to vote and to be elected, but only subject to the following cumulative conditions:
  - ii. It must be provided for by law.
  - iii. The proportionality principle must be observed; conditions for depriving individuals of the right to stand for election may be less strict than for disenfranchising them.
  - iv. The deprivation must be based on mental incapacity or a criminal conviction for a serious offence.
  - v. Furthermore, the withdrawal of political rights or finding of mental incapacity may only be imposed by express decision of a court of law.

## 1.2 Electoral registers

Fulfilment of the following criteria is essential if electoral registers are to be reliable:

- i. Electoral registers must be permanent.
- ii. There must be regular up-dates, at least once a year. Where voters are not registered automatically, registration must be possible over a relatively long period.
- iii. Electoral registers must be published.
- iv. There should be an administrative procedure – subject to judicial control – or a judicial procedure, allowing for the registration of the voter who was not registered; the registration should not take place at the polling station on election day.
- v. A similar procedure should allow the voter to have incorrect inscriptions amended.
- vi. A supplementary register may be a means of giving the vote to persons who have moved or reached statutory voting age since final publication of the register.

## 1.3 Submission of candidatures

- i. The presentation of individual candidates or lists of candidates may be made conditional on the collection of a minimum number of signatures.

- ii. The law should not require collection of the signatures of more than 1% of voters in the constituency concerned.
- iii. Checking of signatures must be governed by clear rules, particularly concerning deadlines.
- iv. The checking process must in principle cover all signatures; however, once it has been established beyond doubt that the requisite number of signatures has been collected, the remaining signatures need not be checked.
- v. Validation of signatures must be completed by the start of the election campaign.
- vi. If a deposit is required, it must be refundable should the candidate or party exceed a certain score; the sum and the score requested should not be excessive.

## 2. *Equal suffrage*

This entails:

- 2.1. Equal voting rights: each voter has in principle one vote; where the electoral system provides voters with more than one vote, each voter has the same number of votes.
- 2.2. Equal voting power: seats must be evenly distributed between the constituencies.
  - i. This must at least apply to elections to lower houses of parliament and regional and local elections.
  - ii. It entails a clear and balanced distribution of seats among constituencies on the basis of one of the following allocation criteria: population, number of resident nationals (including minors), number of registered voters, and possibly the number of people actually voting. An appropriate combination of these criteria may be envisaged.
  - iii. The geographical criterion and administrative, or possibly even historical, boundaries may be taken into consideration.
  - iv. The permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity).
  - v. In order to guarantee equal voting power, the distribution of seats must be reviewed at least every ten years, preferably outside election periods.
  - vi. With multi-member constituencies, seats should preferably be redistributed without redefining constituency boundaries, which should, where possible, coincide with administrative boundaries.

- vii. When constituency boundaries are redefined – which they must be in a single-member system – it must be done:
  - impartially;
  - without detriment to national minorities;
  - taking account of the opinion of a committee, the majority of whose members are independent; this committee should preferably include a geographer, a sociologist and a balanced representation of the parties and, if necessary, representatives of national minorities.

### 2.3. Equality of opportunity

- a. Equality of opportunity must be guaranteed for parties and candidates alike. This entails a neutral attitude by state authorities, in particular with regard to:
  - i. the election campaign;
  - ii. coverage by the media, in particular by the publicly owned media;
  - iii. public funding of parties and campaigns.
- b. Depending on the subject matter, equality may be strict or proportional. If it is strict, political parties are treated on an equal footing irrespective of their current parliamentary strength or support among the electorate. If it is proportional, political parties must be treated according to the results achieved in the elections. Equality of opportunity applies in particular to radio and television air-time, public funds and other forms of backing.
- c. In conformity with freedom of expression, legal provision should be made to ensure that there is a minimum access to privately owned audiovisual media, with regard to the election campaign and to advertising, for all participants in elections.
- d. Political party, candidates and election campaign funding must be transparent.
- e. The principle of equality of opportunity can, in certain cases, lead to a limitation of political party spending, especially on advertising.

### 2.4. Representation of national minorities

- a. Parties representing national minorities must be permitted.
- b. Special rules guaranteeing national minorities reserved seats or providing for exceptions to the normal seat allocation criteria for parties representing national minorities (for instance, exemption from a quorum requirement) do not in principle run counter to equal suffrage.
- c. Neither candidates nor voters must find themselves obliged to reveal their membership of a national minority.

## 2.5. Equal representation of the sexes

Legal rules requiring a minimum percentage of persons of each gender among candidates should not be considered as contrary to the principle of equal suffrage if they have a constitutional basis.

## 3. *Free suffrage*

### 3.1. Freedom of voters to form an opinion

- a. State authorities must observe their duty of neutrality. In particular, this concerns:
  - i. media;
  - ii. billposting;
  - iii. the right to demonstrate;
  - iv. funding of parties and candidates.
- b. The public authorities have a number of positive obligations; *inter alia*, they must:
  - i. submit the candidatures received to the electorate;
  - ii. enable voters to know the lists and candidates standing for election, for example through appropriate posting.
  - iii. The above information must also be available in the languages of the national minorities.
- c. Sanctions must be imposed in the case of breaches of duty of neutrality and voters' freedom to form an opinion.

### 3.2. Freedom of voters to express their wishes and action to combat electoral fraud

- i. Voting procedures must be simple.
- ii. Voters should always have the possibility of voting in a polling station. Other means of voting are acceptable under the following conditions:
- iii. Postal voting should be allowed only where the postal service is safe and reliable; the right to vote using postal votes may be confined to people who are in hospital or imprisoned or to persons with reduced mobility or to electors residing abroad; fraud and intimidation must not be possible.
- iv. Electronic voting should be used only if it is safe and reliable; in particular, voters should be able to obtain a confirmation of their votes and to correct them, if necessary, respecting secret suffrage; the system must be transparent.
- v. Very strict rules must apply to voting by proxy; the number of proxies a single voter may hold must be limited.
- vi. Mobile ballot boxes should only be allowed under strict conditions, avoiding all risks of fraud.

- vii. Two criteria should be at least used to assess the accuracy of the outcome of the ballot: the number of votes cast and the number of voting slips placed in the ballot box.
  - viii. Voting slips must not be tampered with or marked in any way by polling station officials.
  - ix. Unused voting slips must never leave the polling station.
  - x. Polling stations must include representatives of a number of parties, and the presence of observers appointed by the candidates must be permitted during voting and counting.
  - xi. Military personnel should vote at their place of residence whenever possible. Otherwise, it is advisable that they be registered to vote at the polling station nearest to their duty station.
  - xii. Counting should preferably take place in polling stations.
  - xiii. Counting must be transparent. Observers, candidates' representatives and the media must be allowed to be present. These persons must also have access to the records.
  - xiv. Results must be transmitted to the higher level in an open manner.
  - xv. The state must punish any kind of electoral fraud.
4. *Secret suffrage*
- a. For the voter, secrecy of voting is not only a right but also a duty, non-compliance with which must be punishable by disqualification of any ballot paper whose content is disclosed.
  - b. Voting must be individual. Family voting and any other form of control by one voter over the vote of another must be prohibited.
  - c. The list of persons actually voting should not be published.
  - d. The violation of secret suffrage should be sanctioned.
5. *Direct suffrage*
- The following must be elected by direct suffrage:
- i. at least one chamber of the national parliament;
  - ii. sub-national legislative bodies;
  - iii. local councils.
6. *Frequency of elections*
- Elections must be held at regular intervals; a legislative assembly's term of office must not exceed five years.

7. *Electoral system*

Within the respect of the above-mentioned principles, any electoral system may be chosen.

II. *Conditions for implementing these principles*

1. *Respect for fundamental rights*

- a. Democratic elections are not possible without respect for human rights, in particular freedom of expression and of the press, freedom of circulation inside the country, freedom of assembly and freedom of association for political purposes, including the creation of political parties.
- b. Restrictions of these freedoms must have a basis in law, be in the public interest and comply with the principle of proportionality.

2. *Regulatory levels and stability of electoral law*

- a. Apart from technical and detail rules – which may be included in regulations of the executive –, rules of electoral law must have at least the rank of a statute.
- b. The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law.

3. *Procedural guarantees*

3.1. *Electoral commissions*

- a. An impartial body must be in charge of applying electoral law.
- b. Where there is no longstanding tradition of administrative authorities' independence from those holding political power, independent, impartial electoral commissions must be set up at all levels, from the national level to polling station level.
- c. The central electoral commission must be permanent in nature.
- d. It should include:
  - i. at least one member of the judiciary;
  - ii. representatives of parties already in parliament or having scored at least a given percentage of the vote; these persons must be qualified in electoral matters.

It may include:

- iii. a representative of the Ministry of the Interior;
- iv. representatives of national minorities.

- e. Political parties must be equally represented on electoral commissions or must be able to observe the work of the impartial body. Equality may be construed strictly or on a proportional basis (see point I.2.c.bb).
- f. The bodies appointing members of electoral commissions must not be free to dismiss them at will.
- g. Members of electoral commissions must receive standard training.
- h. It is desirable that electoral commissions take decisions by a qualified majority or by consensus.

### 3.2. Observation of elections

- a. Both national and international observers should be given the widest possible opportunity to participate in an election observation exercise.
- b. Observation must not be confined to election day itself, but must include the registration period of candidates and, if necessary, of electors, as well as the electoral campaign. It must make it possible to determine whether irregularities occurred before, during or after the elections. It must always be possible during vote counting.
- c. The places where observers are not entitled to be present should be clearly specified by law.
- d. Observation should cover the respect by the authorities of their duty of neutrality.

### 3.3. An effective system of appeal

- a. The appeal body in electoral matters should be either an electoral commission or a court. For elections to Parliament, an appeal to Parliament may be provided for in first instance. In any case, final appeal to a court must be possible.
- b. The procedure must be simple and devoid of formalism, in particular concerning the admissibility of appeals.
- c. The appeal procedure and, in particular, the powers and responsibilities of the various bodies should be clearly regulated by law, so as to avoid conflicts of jurisdiction (whether positive or negative). Neither the appellants nor the authorities should be able to choose the appeal body.
- d. The appeal body must have authority in particular over such matters as the right to vote – including electoral registers – and eligibility, the validity of candidatures, proper observance of election campaign rules and the outcome of the elections.
- e. The appeal body must have authority to annul elections where irregularities may have affected the outcome. It must be possible to annul the entire election or merely the results for one constituency or one polling station.

In the event of annulment, a new election must be called in the area concerned.

- f. All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections.
- g. Time-limits for lodging and deciding appeals must be short (three to five days for each at first instance).
- h. The applicant's right to a hearing involving both parties must be protected.
- i. Where the appeal body is a higher electoral commission, it must be able *ex officio* to rectify or set aside decisions taken by lower electoral commissions.

### 8.3 Guidelines on the Financing of Political Parties (2001)

The Venice Commission [...]

Has adopted the following guidelines:

1. For the purpose of these guidelines, a political party is an association of persons one of the aims of which is to participate in the management of public affairs by the presentation of candidates to free and democratic elections.
2. Such political parties may seek out and receive funds by means of public or private financing.

#### A. Regular Financing

##### a. Public Financing

3. Public financing must be aimed at each party represented in Parliament.
4. In order, however, to ensure the equality of opportunities for the different political forces, public financing could also be extended to political bodies representing a significant section of the electoral body and presenting candidates for election. The level of financing could be fixed by legislator on a periodic basis, according to objective criteria.

Tax exemptions can be granted for operations strictly connected to the parties' political activity.

5. The financing of political parties through public funds should be on condition that the accounts of political parties shall be subject to control by specific public organs (for example by a Court of Audit). States shall promote a policy of financial transparency of political parties that benefit from public financing.

## b. Private Financing

6. Political parties may receive private financial donations. Donations from foreign States or enterprises must however be prohibited. This prohibition should not prevent financial donations from nationals living abroad.

Other limitations may also be envisaged. Such may consist notably of:

- a. a maximum level for each contribution;
  - b. a prohibition of contributions from enterprises of an industrial, or commercial nature or from religious organisations;
  - c. prior control of contributions by members of parties who wish to stand as candidates in elections by public organs specialised in electoral matters.
7. The transparency of private financing of each party should be guaranteed. In achieving this aim, each party should make public each year the annual accounts of the previous year, which should incorporate a list of all donations other than membership fees. All donations exceeding an amount fixed by the legislator must be recorded and made public.

B. *Electoral Campaigns*

8. In order to ensure equality of opportunities for the different political forces, electoral campaign expenses shall be limited to a ceiling, appropriate to the situation in the country and fixed in proportion to the number of voters concerned.
9. The State should participate in campaign expenses through funding equal to a certain percentage of the above ceiling or proportional to the number of votes obtained. This contribution may however be refused to parties who do not reach a certain threshold of votes.
10. Private contributions can be made for campaign expenses, but the total amount of such contributions should not exceed the stated ceiling. Contributions from foreign States or enterprises must be prohibited. This prohibition should not prevent financial contributions from nationals living abroad. Other limitations may also be envisaged. Such may consist notably of a prohibition of contributions from enterprises of an industrial or commercial nature or religious organisations.
11. Electoral campaign accounts will be submitted to the organ charged with supervising election procedures, for example, an election committee, within a reasonable time limit after the elections.
12. The transparency of electoral expenses should be achieved through the publication of campaign accounts.

*C. Control and sanctions*

13. Any irregularity in the financing of a political party shall entail sanctions proportionate to the severity of the offence that may consist of the loss of all or part of public financing for the following year.
14. Any irregularity in the financing of an electoral campaign shall entail, for the party or candidate at fault, sanctions proportionate to the severity of the offence that may consist of the loss or the total or partial reimbursement of the public contribution, the payment of a fine or another financial sanction or the annulment of the election.
15. The above-mentioned rules including the imposition of sanctions shall be enforced by the election judge (constitutional or other) in accordance with the law.

## The Southern African Development Community (SADC)

The Southern African Development Community was established in 1980, as a loose alliance of nine majority-ruled States in Southern Africa known as the Southern African Development Coordination Conference (SADCC), with the main aim of coordinating development projects in order to lessen economic dependence on the then apartheid South Africa. The transformation of the organization from a Coordinating Conference into a Development Community (SADC) took place in 1992. The organisation furthers socio-economic cooperation and integration as well as political and security cooperation among 14 southern African countries.

### 8.4 SADC Principles and Guidelines Governing Democratic Elections (2004)

#### 1. *Introduction*

SADC region has made significant strides in the consolidation of the citizens' participation in the decision-making processes and consolidation of democratic practice and institutions. The Constitutions of all SADC Member States enshrine the principles of equal opportunities and full participation of the citizens in the political process.

The Southern African countries, building upon their common historical and cultural identity forged over centuries, agreed to encapsulate their commonality into a single vision, that of a SHARED FUTURE. In this context, in 1992 the Southern African countries meeting in Windhoek, the Republic of Namibia, signed a Treaty establishing the Southern African Development Community (SADC).

Article 4 of the Treaty stipulates that "human rights, democracy and the rule of law" are principles guiding the acts of its members. Article 5 of the Treaty outlines the objectives of SADC, which commits the Member States to "promote common political values, systems and other shared values which are transmitted through institutions, which are democratic, legitimate and effective. It also commits Member States to "consolidate, defend and maintain democracy, peace, security and stability" in the region.

The Protocol on Politics, Defence and Security Cooperation provides that SADC shall "promote the development of democratic institutions and practices within the territories of State Parties and encourage the observance of universal human

rights as provided for in the Charter and Conventions of the Organization of African Unity (African Union) and the United Nations.”

In addition, the Strategic Indicative Plan for the Organ (SIPO), as the implementation framework of the Protocol, emphasizes the need for democratic consolidation in the region.

The development of the principles governing democratic elections aims at enhancing the transparency and credibility of elections and democratic governance as well as ensuring the acceptance of election results by all contesting parties.

The Guidelines are not only informed by the SADC legal and policy instruments but also by the major principles and guidelines emanating from the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa – AHG/DECL.1 (XXXVIIIO) and the AU Guidelines for African Union Electoral Observation and Monitoring Missions – EX/CL/35 (III) Annex II.

## 2. *Principles for Conducting Democratic Elections*

2.1 SADC Member States shall adhere to the following principles in the conduct of democratic elections:

2.1.1 Full participation of the citizens in the political process;

2.1.2 Freedom of association;

2.1.3 Political tolerance;

2.1.4 Regular intervals for elections as provided for by the respective National Constitutions;

2.1.5 Equal opportunity for all political parties to access the state media;

2.1.6 Equal opportunity to exercise the right to vote and be voted for;

2.1.7 Independence of the Judiciary and impartiality of the electoral institutions; and

2.1.8 Voter education.

2.1.9 Acceptance and respect of the election results by political parties proclaimed to have been free and fair by the competent National Electoral Authorities in accordance with the law of the land.

2.1.10 Challenge of the election results as provided for in the law of the land.

## 7. *Responsibilities of the Member States Holding Elections*

7.1 Take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of the country;

7.2 Establish where none exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters and compilation of voters' registers, would be addressed;

- 7.3 Establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- 7.4 Safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes as provided for under 2.1.5 above;
- 7.5 Take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices throughout the whole electoral process, in order to maintain peace and security;
- 7.6 Ensure the availability of adequate logistics and resources for carrying out democratic elections;
- 7.7 Ensure that adequate security is provided to all parties participating in elections;
- 7.8 Ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and/other observers/monitors;
- 7.9 Encourage the participation of women, disabled and youth in all aspects of the electoral process in accordance with the national laws;
- 7.10 Issuing invitation by the relevant Electoral institutions of the country in election to SADC 90 (ninety) days before the voting day in order to allow an adequate preparation for the deployment of the Electoral Observation Mission;
- 7.11 Ensure freedom of movement of the members of the SEOM within the host country;
- 7.12 Accreditation of the members of the SEOM as election observers on a non-discriminatory basis;
- 7.13 Allow the members of the SEOM to communicate freely with all competing political parties, candidates, other political associations and organisations, and civil society organizations;
- 7.14 Allow the members of the SEOM to communicate freely with voters except when the electoral law reasonably prescribes such communication in order to protect the secrecy of the vote;
- 7.15 Allow the members of the SEOM an unhindered access to and communicate freely with the media;
- 7.16 Allow the members of the SEOM to communicate with and have unimpeded access to the National Election Commission or appropriate electoral authority and all other election administrators;

- 7.17 Allow the members of the SEOM free access to all legislation and regulations governing the electoral process and environment;
- 7.18 Allow the members of the SEOM free access to all electoral registers or voters' roll;
- 7.19 Ensure that the members of the SEOM have an unimpeded and unrestricted access to all polling stations and counting centres.

## **Annex 1. Matrix on Election Standards in International and Regional Instruments**

**Table 1. UN Treaty Standards**

**Table 2. UN – Non-Treaty Standards**

**Table 3. Regional Instruments – Treaty Standards**

**Table 4. Regional Instruments – Non-Treaty Standards**

Table 1.	UDHR (1948)	UN Treaty Standards					
		ICCPR (1966)	ICERD (1966)	CEDAW (1979)	CPRW (1952)	MWC (1990)	CRPD (2006)
<b>Periodic Elections</b> (e.g. periodicity; procedures for calling; election monitoring bodies)	21(3), p. 38	25(b), p. 39					
<b>Genuine Elections</b> (e.g. freedom of association, assembly and speech; campaign financing; equal access to media)	19, p. 37 20, p. 38 21(3), p. 38	19(2), p. 38 20(2), p. 38 21, p. 38 22, p. 38	4, p. 43 5(d), p. 43	4(f), p. 44 7(c), p. 44			21, p. 48 29(b), p. 49
<b>Stand for Election</b> (e.g. nomination procedures; independent candidates; equal opportunities; no unreasonable restrictions)	21(1), p. 38	25(a), p. 39 25(b), p. 39	5(c), p. 43	7(a), p. 44	1, p. 47 2, p. 47	41(f), p. 47	29(a), p. 48 29(b), p. 49
<b>Universal Suffrage</b> (e.g. voter registration; identification; citizenship; no unreasonable restrictions)	21(3), p. 38	25(b), p. 39	5(c), p. 43				
<b>Right to Vote</b> (e.g. voter education; access to polling station; vote counted appropriate)	21(1), p. 38	25(a), p. 39 25(b), p. 39	5(c), p. 43	7(a), p. 44	1, p. 47	41(f), p. 47	29(a), p. 48 29(b), p. 49
<b>Equal Suffrage</b> (e.g. equivalent weight; election boundaries; secure ballots)	21(3), p. 38	25(b), p. 39	5(c), p. 43				
<b>Secret Vote</b> (e.g. privacy; no intimidation)	21(3), p. 38	25(b), p. 39					29(a), p. 48
<b>Free Expression of the Will of the Electors</b> (e.g. correct transmission of results; complaints process; elected installed into office; domestic and international observers)		25(b), p. 39					29(a), p. 48

UN – Non-Treaty Standards									
	Elimination of all forms of Intolerance and of Discrimination Based on Religion or Belief (1981)	Rights of Persons belonging to National or Ethnic Religious and Linguistic Minorities (1992)	Elimination of Discrimination against Women (1967)	Rights of Disabled Persons (1975)	Elimination of Racial Discrimination (1966)	Vienna Declaration of Programme and Action (1993)	GAR – Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections (1991)	GAR – Promoting and Consolidating Democracy (2001)	GAR – Respect for the Principle of National Sovereignty and Non-Interference in the International Affairs of States in Electoral Process (2002)
<b>Periodic Elections</b> (e.g. periodicity; procedures for calling; election monitoring bodies)						34, p. 65	3, p. 66 6, p. 66	1(d), p. 66	2, p. 67 3, p. 67 8, p. 67
<b>Genuine Elections</b> (e.g. freedom of association, assembly and speech; campaign financing; equal access to media)	4(f), p. 64	2, p. 64	4, p. 64	4, p. 65	6, p. 65	8, p. 65 34, p. 65 67, p. 65	3, p. 66 6, p. 66	1(d), p. 66	6, p. 67 8, p. 67
<b>Stand for Election</b> (e.g. nomination procedures; independent candidates; equal opportunities; no unreasonable restrictions)		2, p. 64	4, p. 64	4, p. 65	6, p. 65		4, p. 66 6, p. 66	1(a), p. 66	
<b>Universal Suffrage</b> (e.g. voter registration; identification; citizenship; no unreasonable restrictions)					6, p. 65		3, p. 66 6, p. 66	1(d), p. 66	8, p. 67
<b>Right to Vote</b> (e.g. voter education; access to polling station; vote counted appropriate)		2, p. 64	4(a), p. 64 4(b), p. 64	4, p. 65	6, p. 65	34, p. 65	6, p. 66	1(a), p. 66 1(d), p. 66	
<b>Equal Suffrage</b> (e.g. equivalent weight; election boundaries; secure ballots)					6, p. 65			1(d), p. 66	8, p. 67
<b>Secret Vote</b> (e.g. privacy; no intimidation)								1(d), p. 66	8, p. 67
<b>Free Expression of the Will of the Electors</b> (e.g. correct transmission of results; complaints process; elected installed into office; domestic and international observers)		2, p. 64				8, p. 65 67, p. 65		1(d), p. 66	1(d), p. 66

Table 3.

Regional Instruments – Treaty Standards											
	AU			ECOWAS	OAS	CoE			CIS		
	ACHPR (1981)	ACHPR-PW (2003)	African Charter on Democracy, Elections and Governance (2007)			ECHR (1950)	ECHR-PI (1952)	FCPNM (1995)	ECLSG (1985)	CPFPL (1992)	Human Rights Convention (1995)
<b>Periodic Elections</b> (e.g. periodicity; procedures for calling; election monitoring bodies)			17, p. 72	2(2), p. 85 3, p. 85 6, p. 86		3, p. 98					1(2), p. 123 1(4), p. 124 6, p. 126 7(1), p. 127 7(2), p. 127 7(3), p. 127 7(4), p. 127 9(5), p. 128 10(2e), p. 129 11, p. 129 17, p. 135 19, p. 136
<b>Genuine Elections</b> (e.g. freedom of association, assembly and speech; campaign financing; equal access to media)	9, p. 69 10, p. 69 11, p. 69		17, p. 72	1(1), p. 85 1(1), p. 85 20, p. 86 22, p. 86		3, p. 98	7, p. 98 9(1), p. 98	3(a), p. 99 3(b), p. 99	11, p. 121 12, p. 121	2, p. 124 9(1), p. 128 9(2), p. 128 9(3), p. 128 9(4), p. 128 9(5), p. 128 10(2b), p. 129 10(2c), p. 129 12, p. 130 13, p. 131 18(2), p. 135 19, p. 136	

Regional Instruments – Treaty Standards												
	AU			ECOWAS			OAS	CoE			CIS	
	ACHPR (1981)	ACHPR-PW (2003)	African Charter on Democracy, Elections and Governance (2007)	Protocol on Democracy and Good Governance (2001)	AmCPRW (1948)	ECHR (1950)	ECHR-PI (1952)	FCPNIM (1995)	ECLSG (1985)	CPFPL (1992)	Human Rights Convention (1995)	Electoral Convention (2002)
<b>Stand for Election</b> (e.g. nomination procedures; independent candidates; equal opportunities; no unreasonable restrictions)	13(1) p. 69	9(1), p. 69 9(2), p. 69	3, p. 71 29, p. 73	2(3), p. 85	1, p. 91			4, p. 98		6(1), p. 100 6(2), p. 100 7, p. 100	29(a), p. 122 29(b), p. 122	1(2), p. 123 1(3), p. 123 2, p. 124 3(1b), p. 125 3(4), p. 125 3(5), p. 125 3(6), p. 125 9(6), p. 128 10(3), p. 129 18(1a), p. 135 18(1b), p. 135 18(2), p. 135 19, p. 136
<b>Universal Suffrage</b> (e.g. voter registration; identification; citizenship; no unreasonable restrictions)				4, p. 85 5, p. 86					3(2), p. 99		29(a), p. 122 30, p. 122	1(2), p. 123 1(3), p. 123 1(7), p. 124 2, p. 124 10(2a), p. 129 19, p. 136
<b>Right to Vote</b> (e.g. voter education; access to polling station; vote count appropriate)	13, p. 69	9, p. 69	3, p. 71 29, p. 73	2(3), p. 85	1, p. 91					6(1), p. 100	29(a), p. 122 29(b), p. 122	1(2), p. 123 1(3), p. 123 2, p. 124 3(2), p. 125 3(3), p. 125 10(2f), p. 129 18(1b), p. 135 19, p. 136

Table 3. contd.

Regional Instruments – Treaty Standards													
	AU			ECOWAS	OAS	CoE			CIS				
	ACHPR (1981)	ACHPR-PW (2003)	African Charter on Democracy, Elections and Governance (2007)			Protocol on Democracy and Good Governance (2001)	AmCPRW (1948)	ECHR (1950)	ECHR-PI (1952)	FCPNM (1995)	ECLSG (1985)	CPFPL (1992)	Human Rights Convention (1995)
<b>Equal Suffrage</b> (e.g. equivalent weight; election boundaries; secure ballots)			3, p. 71						3(2), p. 99				1(2), p. 123 3, p. 125 4, p. 125 5(4), p. 126 10(2a), p. 129 19, p. 136
<b>Secret Vote</b> (e.g. privacy; no intimidation)								3, p. 98	3(2), p. 99				1(2), p. 123 5, p. 126 8, p. 127
<b>Free Expression of the Will of the Electors</b> (e.g. correct transmission of results; complaints process; elected installed into office; domestic and international observers)			2, p. 70 3, p. 71 17, p. 72 32, p. 73	1(b), p. 84 6, p. 86 7, p. 86 8, p. 86 9, p. 86 10, p. 86			3, p. 98	4, p. 98 15, p. 99	3(2), p. 99				1(2), p. 123 1(5), p. 124 1(6), p. 124 4, p. 125 7(5), p. 127 8, p. 127 9(7), p. 128 9(8), p. 128 10(2d), p. 129 10(2f), p. 129 14, p. 132 15, p. 133 16, p. 135 18(3), p. 136 19, p. 136 21, p. 138

	Regional Instruments – Non-Treaty Standards						
	AU		ECOWAS	OAS	CoE		
	NEPAD Decl. on Democracy, Political, Economic and Corporate Governance (2002)	Decl. on the Principles Gov. Dem. Elections (2002)	Decl. of Political Principles of the ECOWAS (1991)	Inter-American Democratic Charter (2001)	Rec. on the Electoral, Civil and Social Rights of Prisoners (1962)	Rec. on Measures Concerning Media Coverage of Election Campaign (1999)	Rec. on Legal, Operational and Technical Standards for E-voting (2004)
<b>Periodic Elections</b> (e.g. periodicity; procedures for calling; election monitoring bodies)	7, p. 78 13, p. 78	II(2), p. 80 II(4d), p. 81 II(4e), p. 81 III(c), p. 81 IV(12), p. 82	3, p. 95 23, p. 95				
<b>Genuine Elections</b> (e.g. freedom of association, assembly and speech; campaign financing; equal access to media)	7, p. 78 15, p. 79	Prea., p. 79 <sup>270</sup> III(d), p. 81 III(g), p. 81 IV(3), p. 82 IV(4), p. 82 IV(5), p. 82 IV(8), p. 82 IV(10), p. 82 IV(11), p. 82 IV(12), p. 82	4, p. 88	3, p. 95 5, p. 95	B(6), p. 105	I, p. 106 II(2), p. 106 II, p. 106 III, p. 107	
<b>Stand for Election</b> (e.g. nomination procedures; independent candidates; equal opportunities; no unreasonable restrictions)	11, p. 78 13, p. 78	III(j), p. 80 IV(1), p. 82 IV(2), p. 82		28, p. 96	A, p. 105		App. I, B(III), p. 112 <sup>271</sup> App. II (III), p. 114
<b>Universal Suffrage</b> (e.g. voter registration; identification; citizenship; no unreasonable restrictions)		III(b), p. 81 IV(1), p. 82		3, p. 95	A, p. 105		App. I, A(I), p. 110 App. I, B(I), p. 112 App. II (II), p. 113 App. III, D(II), p. 118

270. Prea. is abbreviation of Preamble.

271. App. is abbreviation of Appendix.

Table 4. contd.

Regional Instruments – Non-Treaty Standards						
AU		ECOWAS	OAS	CoE		
NEPAD Decl. on Democracy, Political, Economic and Corporate Governance (2002)	Decl. on the Principles Gov. Dem. Elections (2002)	Decl. of Political Principles of the ECOWAS (1991)	Inter-American Democratic Charter (2001)	Rec. on the Electoral, Civil and Social Rights of Prisoners (1962)	Rec. on Measures Concerning Media Coverage of Election Campaign (1999)	Rec. on Legal, Operational and Technical Standards for E-voting (2004)
<b>Right to Vote</b> (e.g. voter education; access to polling station; vote counted appropriate)	13, p. 78 III(e), p. 81 III(f), p. 82 IV(1), p. 82 IV(2), p. 82			A, p. 105 B(5), p. 105		
<b>Equal Suffrage</b> (e.g. equivalent weight; election boundaries; secure ballots)						App. I, A(II), p. 110 App. II (IV), p. 114
<b>Secret Vote</b> (e.g. privacy; no intimidation)			3, p. 95			App. I, A (IV), p. 111
<b>Free Expression of the Will of the Electors</b> (e.g. correct transmission of results; complaints process; elected installed into office; domestic and international observers)	13, p. 78 Prea., p. 79 II(4a), p. 81 III(f), p. 81 III(h), p. 81 III(i), p. 81 IV(6), p. 82 IV(7), p. 82 IV(9), p. 82 IV(13), p. 83		23, p. 95	A, p. 105		App. I, A(III), p. 111 App. II, V, p. 115 App. III, D(i), p. 117 App. III, D(ii), 118 App. III, D(IV), 119

## **Annex 2. Matrix on Election Standards Contained in Political Commitment Documents**

**Table 1. Political Commitments**

Table 1.

	Political Commitments											
	LAS	OIC	Commonwealth		OSCE			EU		EU/APC		
	Arab Charter on Human Rights (1994)	Cairo Declaration on Human Rights in Islam (1990)	Harare Commonwealth Decl. (1991)	Lusaka Decl. of the Commonwealth on Racism and Racial Prejudice (1979)	Copenhagen Document on the Human Dimension of the OSCE (1990)	Charter of Paris for a New Europe (1990)	Moscow Document on the Human Dimension of the OSCE (1991)	Istanbul Summit Decl. (1999)	Charter of Fundamental Rights of the European Union (2000)	Commission Comm. on EU Election Assistance and Observation (2000)	Comm. from the Commission [...] – The EU's Role in Promoting Human Rights and Democratization in Third Countries (2001)	Cotonou Agreement (2000)
<b>Periodic Elections</b> (e.g. periodicity; procedures for calling; election monitoring bodies)					5(1), p. 143 6, p. 143 7(1), p. 144							
<b>Genuine Elections</b> (e.g. freedom of association, assembly and speech; campaign financing; equal access to media)	28, p. 140	22(a), p. 141			6, p. 143 7(6), p. 144 7(7), p. 144 7(8), p. 144 10, p. 145	Ch. text, p. 145 <sup>272</sup>		26, p. 146	11(1), p. 147 12(1), p. 147			
<b>Stand for Election</b> (e.g. nomination procedures; independent candidates; equal opportunities; no unreasonable restrictions)						Ch. text, p. 145	40(8), p. 145	26, p. 146	39(1), p. 147 40, p. 147			
<b>Universal Suffrage</b> (e.g. voter registration; identification; citizenship; no unreasonable restrictions)				Text, p. 142	7(3), p. 144				39(2), p. 147			

272. Ch. is abbreviation of Charter

Table 1. contd.	Political Commitments											
	LAS	OIC	Commonwealth		OSCE			EU			EU /APC	
	Arab Charter on Human Rights (1994)	Cairo Declaration on Human Rights in Islam (1990)	Harare Commonwealth Decl. (1991)	Lusaka Decl. of the Commonwealth on Racism and Prejudice (1979)	Copenhagen Document on the Human Dimension of the OSCE (1990)	Charter of Paris for a New Europe (1990)	Moscow Document on the Human Dimension of the OSCE (1991)	Istanbul Summit Decl. (1999)	Charter of Fundamental Rights of the European Union (2000)	Commission Comm. on EU Election Assistance and Observation (2000)	Comm. from the Commission [...] – The EU's Role in Promoting Human Rights and Democracy in Third Countries (2001)	Cotonou Agreement (2000)
<b>Right to Vote</b> (e.g. voter education; access to polling station; vote count appropriate)				Text, p.142		Ch. text, p.145	40(8), p. 145	26, p. 146	39(1), p. 147 40, p. 147			
<b>Equal Suffrage</b> (e.g. equivalent weight; election boundaries; secure ballots)					7(3), p. 144							
<b>Secret Vote</b> (e.g. privacy; no intimidation)					5(1), p. 143 7(4), p. 144 7(7), p. 144				39(2), p. 147			
<b>Free Expression of the Will of the Electors</b> (e.g. correct transmission of results; complaints process; elected installed into office; domestic and international observers)					5(1), p. 143 6, p. 143 7(1), p. 144 7(4), p. 144 7(9), p. 144	Ch. text, p. 145		26, p. 146				

## Annex 3. Global Matrix on States Parties to International and Regional Instruments Containing Election Standards

Table 1. Global Matrix

### *Legend*

#### **Universal Instruments**

- Ratified
- Ratified with comment, see footnote in chapter 5
- Signed but not ratified, see footnote in chapter 5
- Not ratified

#### **Regional Instruments**

- Ratified
- Ratified with comment, see footnote in chapter 6
- Signed but not ratified, see footnote in chapter 6
- Not ratified

Table 1.

	UN						AU		ECOWAS	OAS		CoE					CIS	
	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD	ACHPR	ACHPR-PW	Protocol on Democracy and Good Governance	AmCHR	AmCPRW	ECHR	ECHR-P1	FCPNM	CLSG	CPFPL	Human Rights Convention	Electoral Convention
Afghanistan	●	●	●	●	●	●												
Albania	●	●	●	●	●	●						●	●	●	●	●		
Algeria	●	●	●	●	●	●	●	●										
Andorra	●	●	●	●	●	●						●	●	●	●	●		
Angola	●	●	●	●	●	●	●	●										
Antigua and Barbuda	●	●	●	●	●	●				●	●							
Argentina	●	●	●	●	●	●				●	●							
Armenia	●	●	●	●	●	●						●	●	●	●	●	●	●
Australia	●	●	●	●	●	●												
Austria	●	●	●	●	●	●						●	●	●	●	●		
Azerbaijan	●	●	●	●	●	●						●	●	●	●	●	●	●
Bahamas	●	●	●	●	●	●				●	●							
Bahrain	●	●	●	●	●	●												
Bangladesh	●	●	●	●	●	●												
Barbados	●	●	●	●	●	●				●	●							
Belarus	●	●	●	●	●	●											●	●
Belgium	●	●	●	●	●	●						●	●	●	●	●		
Belize	●	●	●	●	●	●				●	●							
Benin	●	●	●	●	●	●	●	●	●									
Bhutan	●	●	●	●	●	●												
Bolivia	●	●	●	●	●	●				●	●							
Bosnia and Herzegovina	●	●	●	●	●	●						●	●	●	●	●		
Botswana	●	●	●	●	●	●	●	●										
Brazil	●	●	●	●	●	●				●	●							
Brunei Darussalam	●	●	●	●	●	●												
Bulgaria	●	●	●	●	●	●						●	●	●	●	●		
Burkina Faso	●	●	●	●	●	●	●	●	●									
Burundi	●	●	●	●	●	●	●	●										
Cambodia	●	●	●	●	●	●												

Table 1. contd.

	UN						AU		EC OW AS	OAS		CoE					CIS	
	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD	ACHPR	ACHPR-PW	Protocol on Democracy and Good Governance	AmCHR	AmCPRW	ECHR	ECHR-P1	FCPNM	CLSG	CPFPL	Human Rights Convention	Electoral Convention
Cameroon	●	●	●	●	●	●	●	●										
Canada	●	●	●	●	●	●					●	●						
Cape Verde	●	●	●	●	●	●	●	●	●									
Central African Republic	●	●	●	●	●	●	●	●										
Chad	●	●	●	●	●	●	●	●										
Chile	●	●	●	●	●	●					●	●						
China	●	●	●	●	●	●					●	●						
Colombia	●	●	●	●	●	●					●	●						
Comoros	●	●	●	●	●	●	●	●										
Congo	●	●	●	●	●	●	●	●										
Cook Islands	●	●	●	●	●	●												
Costa Rica	●	●	●	●	●	●					●	●						
Côte d'Ivoire	●	●	●	●	●	●	●	●	●									
Croatia	●	●	●	●	●	●						●	●	●	●	●		
Cuba	●	●	●	●	●	●					●	●						
Cyprus	●	●	●	●	●	●						●	●	●	●	●		
Czech Republic	●	●	●	●	●	●						●	●	●	●	●		
Democratic People's Republic of Korea	●	●	●	●	●	●												
Democratic Republic of the Congo	●	●	●	●	●	●	●	●										
Denmark	●	●	●	●	●	●						●	●	●	●	●		
Djibouti	●	●	●	●	●	●	●	●										
Dominica	●	●	●	●	●	●					●	●						
Dominican Republic	●	●	●	●	●	●					●	●						
Ecuador	●	●	●	●	●	●					●	●						
Egypt	●	●	●	●	●	●	●	●										
El Salvador	●	●	●	●	●	●					●	●						
Equatorial Guinea	●	●	●	●	●	●	●	●										
Eritrea	●	●	●	●	●	●	●	●										
Estonia	●	●	●	●	●	●						●	●	●	●	●		

Table 1. contd.

	UN						AU		EC OW AS	OAS		CoE					CIS	
	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD	ACHPR	ACHPR-PW	Protocol on Democracy and Good Governance	AmCHR	AmCPRW	ECHR	ECHR-P1	FCPNM	CLSG	CPFPL	Human Rights Convention	Electoral Convention
Ethiopia	●	●	●	●	●	●	●	●										
European Community	●	●	●	●	●	●												
Fiji	●	○	●	●	●	●												
Finland	●	●	●	●	●	●						●	●	●	●	●		
France	●	●	●	●	●	●						●	●	●	●	●		
Gabon	●	●	●	●	●	●	●	●										
Gambia	●	●	●	●	●	●	●	●	●									
Georgia	●	●	●	●	●	●						●	●	●	●	●	●	●
Germany	●	●	●	●	●	●						●	●	●	●	●		
Ghana	●	●	●	●	●	●	●	●	●									
Greece	●	●	●	●	●	●						●	●	●	●	●		
Grenada	●	●	●	●	●	●				●	●							
Guatemala	●	●	●	●	●	●				●	○							
Guinea	●	●	●	●	●	●	●	●	●									
Guinea-Bissau	●	●	●	●	●	●	●	●	●									
Guyana	●	●	●	●	●	●				●	●							
Haiti	●	●	●	●	●	●				●	●							
Holy see	●	●	●	●	●	●												
Honduras	●	●	●	●	●	●				●	○							
Hungary	●	●	●	●	●	●						●	●	●	●	●		
Iceland	●	●	●	●	●	●						●	●	●	●	●		
India	●	●	●	●	●	●												
Indonesia	●	●	●	●	●	●												
Iran (Islamic Republic of)	●	●	●	●	●	●												
Iraq	●	●	●	●	●	●												
Ireland	●	○	●	●	●	●						●	●	●	●	●		
Israel	●	●	●	●	●	●												
Italy	●	●	●	●	●	●						●	●	●	●	○		
Jamaica	●	●	●	●	●	●				●	●							
Japan	●	○	●	●	●	●												

Table 1. contd.

	UN						AU		EC OW AS	OAS		CoE					CIS	
	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD	ACHPR	ACHPR-PW	Protocol on Democracy and Good Governance	AmCHR	AmCPRW	ECHR	ECHR-P1	FCPNM	CLSG	CPFPL	Human Rights Convention	Electoral Convention
Jordan	●	●	●	●	●	●												
Kazakhstan	●	●	●	●	●	●											●	●
Kenya	●	●	●	●	●	●	●	●										
Kiribati	●	●	●	●	●	●												
Kuwait	○	●	●	●	●	●												
Kyrgyzstan	●	●	●	●	●	●											●	●
Lao People's Democratic Republic	●	●	●	●	●	●												
Latvia	●	●	●	●	●	●					●	●	●	●	●	●		
Lebanon	●	●	●	●	●	●												
Lesotho	●	●	●	●	●	●	●	●										
Liberia	●	●	●	●	●	●	●	●	●									
Libyan Arab Jamahiriya	●	●	●	●	●	●	●	●										
Liechtenstein	●	●	●	●	●	●					●	●	●	●	●	●		
Lithuania	●	●	●	●	●	●					●	●	●	●	●	●		
Luxembourg	●	●	●	●	●	●					●	●	●	●	●	●		
Madagascar	●	●	●	●	●	●	●	●										
Malawi	●	●	●	●	●	●	●	●										
Malaysia	●	●	○	●	●	●												
Maldives	●	●	○	●	●	●												
Mali	●	●	●	●	●	●	●	●	●									
Malta	●	●	●	●	●	●					○	●	○	●	●	●		
Marshall Islands	●	●	●	●	●	●												
Mauritania	●	●	○	●	●	●	●	●										
Mauritius	●	●	●	●	●	●	●	●										
Mexico	○	●	●	●	●	●			○	●								
Micronesia (Federated states of)	●	●	●	●	●	●												
Monaco	●	○	●	●	●	●					●	●	●	●	●	●		
Mongolia	●	●	●	●	●	●												
Montenegro	●	●	●	●	●	●					●	●	●	●	●	●		

Table 1. contd.

	UN						AU		EC OW AS	OAS		CoE					CIS	
	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD	ACHPR	ACHPR-PW	Protocol on Democracy and Good Governance	AmCHR	AmCPRW	ECHR	ECHR-P1	FCPNM	CLSG	CPFPL	Human Rights Convention	Electoral Convention
Morocco	●	●	●	●	●	●	●	●										
Mozambique	●	●	●	●	●	●	●	●										
Myanmar	●	●	●	●	●	●	●	●										
Namibia	●	●	●	●	●	●	●	●										
Nauru	●	●	●	●	●	●	●	●										
Nepal	●	●	●	●	●	●	●	●										
Netherlands	●	●	●	●	●	●	●	●				●	●	●	●	●		
New Zealand	●	●	●	●	●	●	●	●										
Nicaragua	●	●	●	●	●	●	●	●		●	●							
Niger	●	●	●	●	●	●	●	●	●	●								
Nigeria	●	●	●	●	●	●	●	●	●	●								
Norway	●	●	●	●	●	●	●	●				●	●	●	●	●		
Oman	●	●	●	●	●	●	●	●										
Pakistan	●	●	●	●	●	●	●	●										
Palau	●	●	●	●	●	●	●	●										
Panama	●	●	●	●	●	●	●	●		●	●							
Papua New Guinea	●	●	●	●	●	●	●	●										
Paraguay	●	●	●	●	●	●	●	●		●	●							
Peru	●	●	●	●	●	●	●	●		●	●							
Philippines	●	●	●	●	●	●	●	●										
Poland	●	●	●	●	●	●	●	●				●	●	●	●	●		
Portugal	●	●	●	●	●	●	●	●				●	●	●	●	●		
Qatar	●	●	●	●	●	●	●	●										
Republic of Korea	●	●	●	●	●	●	●	●										
Republic of Moldova	●	●	●	●	●	●	●	●				●	●	●	●	●	●	●
Romania	●	●	●	●	●	●	●	●				●	●	●	●	●		
Russian Federation	●	●	●	●	●	●	●	●				●	●	●	●	●		
Rwanda	●	●	●	●	●	●	●	●	●	●								
Saint Kitts and Nevis	●	●	●	●	●	●	●	●		●	●							
Saint Lucia	●	●	●	●	●	●	●	●		●	●							

Table 1. contd.

	UN						AU		EC OW AS	OAS		CoE					CIS	
	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD	ACHPR	ACHPR-PW	Protocol on Democracy and Good Governance	AmCHR	AmCPRW	ECHR	ECHR-P1	FCPNM	CLSG	CPFPL	Human Rights Convention	Electoral Convention
Saint Vincent and the Grenadines	●	●	●	●	●	●					●	●						
Samoa	●	●	●	●	●	●												
San Marino	●	●	●	●	●	●						●	●	●	●	●		
Sao Tome and Principe	●	●	●	●	●	●	●	●										
Saudi Arabia	●	○	○	●	●	●												
Senegal	●	●	●	●	●	●	●	●	●									
Serbia	●	●	●	●	●	●						●	●	●	●	●		
Seychelles	●	●	●	●	●	●	●	●										
Sierra Leone	●	●	●	●	●	●	●	●	●									
Singapore	●	●	●	●	●	●												
Slovakia	●	●	●	●	●	●						●	●	●	●	●		
Slovenia	●	●	●	●	●	●						●	●	●	●	●		
Solomon Islands	●	●	●	●	●	●												
Somalia	●	●	●	●	●	●	●	●										
South Africa	●	●	●	●	●	●	●	●										
Spain	●	●	●	●	●	●						○	●	●	●	●	●	
Sri Lanka	●	●	●	●	●	●												
Sudan	●	●	●	●	●	●	●	●										
Suriname	●	●	●	●	●	●				●	●							
Swaziland	●	●	●	●	●	●	●	●										
Sweden	●	●	●	●	●	●						●	●	●	●	●		
Switzerland	○	○	●	●	●	●						●	●	●	●	●		
Syrian Arab Republic	●	●	●	●	●	●												
Tajikistan	●	●	●	●	●	●											●	●
Territory of Western Sahara							●	●										
Thailand	●	○	●	●	●	●												
The Former Yugoslav Republic of Macedonia	●	●	●	●	●	●						●	●	●	●	●		
Timor-Leste	●	●	●	●	●	●												

Table 1. contd.

	UN						AU		ECOWAS	OAS		CoE					CIS	
	ICCPR	ICERD	CEDAW	CPRW	MWC	CRPD	ACHPR	ACHPR-PW	Protocol on Democracy and Good Governance	AmCHR	AmCPRW	ECHR	ECHR-P1	FCPNM	CLSG	CPFPL	Human Rights Convention	Electoral Convention
Togo	●	●	●	●	●	●	●	●	●									
Tonga	●	●	●	●	●	●												
Trinidad and Tobago	●	●	●	●	●	●				○	●							
Tunisia	●	●	○	●	●	●	●	●										
Turkey	●	●	●	●	●	●						●	●	●	●	●		
Turkmenistan	●	●	●	●	●	●											●	●
Tuvalu	●	●	●	●	●	●												
Uganda	●	●	●	●	●	●	●	●										
Ukraine	●	●	●	●	●	●						●	●	●	●	●	●	●
United Arab Emirates	●	●	●	●	●	●												
United Kingdom of Great Britain and Northern Ireland	●	○	●	○	●	●						●	●	●	●	●		
United Republic of Tanzania	●	●	●	●	●	●	●	●										
United states of America	●	○	●	●	●	●				●	●							
Uruguay	●	●	●	●	●	●				○	●							
Uzbekistan	●	●	●	●	●	●											●	●
Vanuatu	●	●	●	●	●	●												
Venezuela	●	●	●	●	●	●				●	●							
Viet Nam	●	●	●	●	●	●												
Yemen	●	●	●	●	●	●												
Zambia	●	●	●	●	●	●	●	●										
Zimbabwe	●	●	●	●	●	●	●	●										

## Annex 4. The Use of International Standards for Assessment of Election Processes by European Union Election Observation Missions

### *Areas of Assessment*

European Union Election Observation Missions (EU EOMs) address the following areas of assessment when observing an election process:

- (i) the political context to the election;
- (ii) the legal framework for elections, including reference to the electoral system;
- (iii) the administration of the elections, including the conduct and the transparency of the electoral process;
- (iv) suffrage and the registration of voters;
- (v) the registration of candidates and electoral lists, including the registration of political parties;
- (vi) the election campaign, including campaign regulations, the environment for campaigning and voter education;
- (vii) the media, including the legal framework for media, the media environment and an assessment (qualitative and quantitative) of the media's coverage of the election;
- (viii) election-related complaints and appeals;
- (ix) human rights issues, including the participation of women and national minorities in the electoral process;
- (x) the role of civil society in the electoral process;
- (xi) Election Day, including polling and the counting of votes; and
- (xii) the results process, including the tabulation and publication of results.

***Basis of Assessment***

An EU EOM will assess an election process in accordance with standards that stem from the following four tenets:

- (i) international treaty obligations which are binding on the country being observed;
- (ii) regional treaty obligations which are binding on the country being observed;
- (iii) political commitments or declarations made by the country being observed which, although not legally binding, are politically binding on that country; and
- (iv) the national legal framework for elections of the country being observed (including where international or regional treaty obligations have been incorporated into national law).

***International Standards for Elections***

The international standards for elections used by an EU EOM are based on the fundamental freedoms and political rights applicable during the conduct of elections, which are established by international and regional legal instruments and political commitments. An EU EOM will use the following international standards for elections as the primary criteria for assessing an election process:

- The right to participate in government, which guarantees the right and the opportunity, without unreasonable restriction, for:
  - periodic elections,
  - genuine elections,
  - universal suffrage,
  - equal suffrage,
  - the right to stand for election,
  - the right to vote,
  - the right to a secret ballot,
  - the free expression of the will of voters;
- The freedom of expression;
- The freedom of association;
- The freedom of assembly;
- The freedom of movement;
- The freedom from non-discrimination; and
- The right to an effective legal remedy.

***National Legislative Framework for Elections***

EU observers will also assess whether an electoral process is conducted in accordance with the national legislative framework for elections in the country being

observed. In addition, an EU EOM will assess the degree to which the national legislative framework is in line with international standards for elections, especially in its guarantees for the protection and exercise of fundamental freedoms and political rights.

### ***International Best Practice for Genuine Democratic Elections***

While not always specifically referred to in international or regional instruments as international standards, there are a number of best practices for elections which can be considered as essential elements to a genuine and democratic electoral process. As such they will be routinely referred to by EU observers in an assessment of an electoral process. These include:

- Transparency of the electoral process, including: access by observers and prompt publication of detailed results;
- An election administration that is effective, impartial and independent;
- Equality or equity for candidates and political parties in the use of resources;
- Equitable access to, and balanced coverage by, any state or publicly funded media;
- Voter education programmes to ensure that voters understand the electoral process, the choices they may vote for, and practical information on when, where and how to vote;
- A peaceful atmosphere in which candidates, parties and voters can campaign and vote.

Further detail on the areas of international best practice which may be included in an EU EOM assessment of an electoral process can be found in the EU/NEEDS publication ‘Handbook for European Union Election Observation Missions’.

### ***Methodological Use of International Standards by EU Observers***

The following chart provides a general framework for the use of international standards by EU EOMs. This can be developed to include regional standards applicable to the particular country being observed and any additional relevant international standards. The framework identifies standards related to the specific areas of assessment undertaken by an EU EOM. To provide clarification on the area to be assessed, the chart also includes extracts from the General Comment Number 25 (1996) of the United Nations Human Rights Committee (HRC), which provide an authoritative interpretation on ICCPR Article 25 (*the right to participate in public affairs, voting rights and the right of equal access to public service*). The chart also refers to provisions of the International Convention on the Elimination of Racial Discrimination (ICERD) (1966) and Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (1979) which may be relevant to the assessment by an EU EOM.

## 1. Political Background

Related Standards	Interpretative Comment
<i>Free Expression of Will</i>	Where citizens participate in the conduct of public affairs through freely chosen representatives, it is implicit in article 25 of the ICCPR that those representatives do in fact exercise governmental power and that they are accountable through the electoral process for their exercise of that power. (HRC GC 25 Paragraph 7)
<i>Periodic Elections</i>	<p>Genuine periodic elections are essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them. (HRC GC 25 Paragraph 9)</p> <p>Elections must be held at intervals which are not unduly long and which ensure that the authority of government continues to be based on the free expression of the will of the electors. (HRC GC 25 Paragraph 9)</p>

## 2 a. Legal Framework

Related Standards	Interpretative Comment
<i>Right to Participation</i>	<p>In contrast with other rights and freedoms (which apply to all individuals within the territory and subject to the jurisdiction of the State), ICCPR Article 25 protects the rights of “every citizen”. (HRC GC 25 paragraph 3)</p> <p>Any conditions which apply to the exercise of the rights protected by article 25 should be based on objective and reasonable criteria and may not be suspended or excluded, except on grounds which are established by law and which are objective and reasonable. (HRC GC 25 paragraph 4)</p>

<i>Genuine Elections</i>	Each State Party [to ICCPR] undertakes to adopt such laws or other measures to give effect to the rights recognised in the Covenant. (ICCPR, Article 2.2) Participation through [elected] representatives is exercised through voting processes which must be established and guaranteed by laws that are in accordance with fundamental freedoms and political rights. (HRC GC 25 paragraph 8)
<i>Freedoms of Expression, Assembly and Association</i>	Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected. (HRC GC 25 paragraph 12)
<i>Non-Discrimination</i>	No distinctions are permitted between citizens in the enjoyment of [electoral] rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. (ICCPR Article 2.1, Article 26 and HRC GC 25 paragraph 3)

## 2 b. Electoral System

Related Standards	Interpretative Comment
<i>Genuine Elections</i>	Although the ICCPR does not impose any particular electoral system, any system operating in a State Party must be compatible with the rights protected by Article 25 and must guarantee and give effect to the free expression of the will of the electors. (HRC GC 25 paragraph 21)
<i>Equal Suffrage</i>	The principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict

unreasonably the right of citizens to choose their representatives freely. (HRC GC 25 paragraph 21)

*Non-Discrimination*

Temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discriminatory but shall in no way entail the maintenance of unequal or separate standards. (CEDAW Article 4.1)

### 3. Election Administration

#### Related Standards

#### Interpretative Comment

*Genuine Elections*

An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant. (HRC GC 25 paragraph 20)

There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes. (HRC GC 25 paragraph 20)

### 4. Voter Registration

#### Related Standards

#### Interpretative Comment

*Universal Suffrage*

The right to vote at elections and referenda must be established by law and may be subject only to reasonable restrictions, such as setting a minimum age limit for the right to vote. (HRC GC 25 paragraphs 10 and 4)

States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. (HRC GC 25 paragraph 11)

It is unreasonable to restrict the right to vote on the ground of physical disability or to impose liter-

acy, educational or property requirements. Party membership should not be a condition of eligibility to vote, nor a ground of disqualification. (HRC GC 25 paragraph 10)

The grounds for deprivation [of the right to vote] should be objective and reasonable. (HRC GC 25 paragraph 13)

Established mental incapacity may be a ground for denying a person the right to vote. (HRC GC 25 paragraph 4)

If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence. Persons who are deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote. (HRC GC 25 paragraph 13)

Where registration of voters is required, it should be facilitated, and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote. (HRC GC 25 paragraph 11)

### *Non-Discrimination*

No distinctions are permitted between citizens in the enjoyment of [suffrage] rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. (ICCPR Article 2.1, Article 26 and HRC GC 25 paragraph 3)

Everyone has the right, without distinction as to race, colour or national or ethnic origin to equality before the law and (c) in particular the right to vote (ICERD Article 5)

State Parties ... shall ensure to women, on equal terms with men, the right (a) to vote in all elections (CEDAW Article 7)

## 5. Candidate Registration

### Related Standards

### Interpretative Comment

#### *Right to Stand*

Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation. (HRC GC 25 paragraph 15)

The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties. (HRC GC 25 paragraph 17)

Established mental incapacity may be a ground for denying a person the right to hold office. (HRC GC 25 paragraph 4)

No person should suffer discrimination or disadvantage of any kind because of that person's candidacy. (HRC GC 25 paragraph 15)

Conditions relating to nomination dates, fees or deposits should be reasonable and not discriminatory. (HRC GC 25 paragraph 16)

If a candidate is required to have a minimum number of supporters for nomination, this requirement should be reasonable and not act as a barrier to candidacy. (HRC GC 25 paragraph 17)

If there are reasonable grounds for regarding certain elective offices as incompatible with tenure of specific positions (e.g. the judiciary, high-ranking military office, public service), measures to avoid any conflicts of interest should not unduly limit the rights protected by Article 25. (HRC GC 25 paragraph 16)

*Freedoms of Expression,  
Assembly and Association*

The full enjoyment of rights protected by article 25 requires freedom to engage in political activity individually or through political parties and other organizations. (HRC GC 25 paragraph 25)

The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25. Political parties and membership in parties play a significant role in the conduct of public affairs and the election process. (HRC GC 25 paragraph 26)

No restrictions may be placed on the exercise of the right to freedom of association other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right. (ICCPR Article 22.2)

*Non-Discrimination*

No distinctions are permitted between citizens in the enjoyment of [the right to stand for election] on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. (ICCPR Article 2.1, Article 26 and HRC GC 25 paragraph 3)

Everyone has the right, without distinction as to race, colour or national or ethnic origin to equality before the law and (c) in particular the right to stand for election (ICERD Article 5)

State Parties ... shall ensure to women, on equal terms with men, the right (a) ... to be eligible for election to all publicly elected bodies (CEDAW Article 7)

Temporary special measures aimed at accelerating *de facto* equality between men and women shall

not be considered discriminatory but shall in no way entail the maintenance of unequal or separate standards. (CEDAW, Article 4.1)

## 6. Campaign

### Related Standards

### Interpretative Comment

*Freedoms of Expression, Assembly, Association and Movement*

The full enjoyment of rights protected by article 25 requires freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas. (HRC GC 25 paragraph 25)

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of the right to peaceful assembly other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. (ICCPR Article 21)

Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. (ICCPR Article 12.1)

*Free Expression of Will*

Persons entitled to vote must be free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind. (HRC GC 25 paragraph 19)

Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the

democratic process distorted by the disproportionate expenditure on behalf of any candidate or party. (HRC GC 25 paragraph 19)

*Genuine Elections*

Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community. (HRC GC 25 paragraph 11)

## 7. Complaints and Appeals

### Related Standards

### Interpretative Comment

*Right to an Effective Remedy*

All persons whose rights or freedoms are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity. (ICCPR Art 2.3.a)

Such a remedy shall [be] determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy. (ICCPR Art 2.3.b)

The competent authorities shall enforce such remedies when granted. (ICCPR Art 2.3.c)

*Genuine Elections*

There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes. (HRC GC 25 paragraph 20)

*Free Expression of Will*

Any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced. (HRC GC 25 paragraph 11)

## 8. Media

### Related Standards

*Freedoms of Expression,  
Assembly and Association*

### Interpretative Comment

A person's right to freedom of expression shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. (ICCPR Article 19.2)

In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. (HRC GC 25 paragraph 25)

The exercise of the right [to freedom of expression] carries with it special duties and responsibilities. It may therefore be subject to certain restrictions but these shall only be such as are provided by law and are necessary (a) for respect of the rights or reputations of others (b) for the protection of national security or of public order or of public health or morals. (ICCPR Article 19.3)

Certain restrictions on the right [to freedom of expression] are permitted which may relate to the interests of other persons or to those of the community as a whole. However, these restrictions may not put in jeopardy the right itself. (HRC General Comments Number 10 [1983] paragraph 4)

## 9. Human Rights

### Related Standards

### Interpretative Comment

#### *Non-Discrimination*

Rights are to be respected without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. (ICCPR Articles 2.1 and 26)

The equal right of men and women to the enjoyment of all civil and political rights should be ensured. (ICCPR Article 3)

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right ... to use their own language. (ICCPR Article 27)

State Parties undertake ... to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law, notably in the enjoyment of (c) political rights, in particular the right to participate in elections ... on the basis of universal and equal suffrage (d) other civil rights [including] (viii) the right to freedom of opinion and expression (ix) the right to freedom of peaceful assembly and association. (ICERD Article 5)

To ensure to women, on equal terms with men, the right (a) to vote in all elections and to be eligible for election to all publicly elected bodies (CEDAW Article 7)

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group... to use their own language. (ICCPR Article 27)

#### *Right to Vote*

Information and materials about voting should be available in minority languages. (HRC GC 25 paragraph 12)

## 10. Civil Society

### Related Standards

### Interpretative Comment

*Freedoms of Expression, Assembly and Association*

Citizens take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association. (HRC GC 25 paragraph 8)

*Genuine Elections*

There should be independent scrutiny of the voting and counting process ... so that electors have confidence in the security of the ballot and the counting of the votes. (HRC GC 25 paragraph 20)

## 11. Election Day (Voting and Counting)

### Related Standards

### Interpretative Comment

*Right to Vote*

Positive measures should be taken to overcome specific difficulties, such as illiteracy, language barriers, poverty, or impediments to freedom of movement which prevent persons entitled to vote from exercising their rights effectively. Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have adequate information on which to base their choice. (HRC GC 25 paragraph 12)

Assistance provided to the disabled, blind or illiterate should be independent. Electors should be fully informed of these guarantees. (HRC GC 25 paragraph 20)

*Secret Ballot*

States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists. This implies that voters should be protected

from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process. Waiver of these rights is incompatible with article 25 of the Covenant. (HRC GC 25 paragraph 20)

*Genuine Elections*

There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes. (HRC GC 25 paragraph 20)

*Free Expression of Will*

Persons entitled to vote must be free to vote for any candidate for election without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind. (HRC GC 25 paragraph 19)

## 12. Results Process

### Related Standards

### Interpretative Comment

*Free Expression of Will*

The results of genuine elections should be respected and implemented. (HRC GC 25 paragraph 19)

The security of ballot boxes must be guaranteed, and votes should be counted in the presence of the candidates or their agents. (HRC GC 25 paragraph 20)

The grounds for the removal of elected office holders should be established by laws based on objective and reasonable criteria and incorporating fair procedures. (HRC GC 25 paragraph 16)

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## The Network of Europeans for Electoral and Democracy Support



**The Network of Europeans for Electoral and Democracy Support (NEEDS)** brings together some of the leading European organisations and individuals involved in the field of democratisation and election observation. The aim of NEEDS is to increase the capacity of both the European Union and civil society organisations to conduct credible and effective election observation missions. NEEDS is funded by the European Commission and draws on expertise from around the world. The NEEDS website is a resource for all organisations and individuals interested in election observation (see [www.needs-network.org](http://www.needs-network.org)).

During the current project cycle, NEEDS has trained several hundred people for EU Election Observation Missions (EOMs). This has included training for the core team positions and for long term observers. NEEDS has also produced a number of resources to maximise the quality and efficiency of EU EOMs. These include an updated Handbook for EU Election Observation, an updated Compendium of International Standards for Elections, and various guidelines and templates. These resources are fully available on the NEEDS website and may be used by other observer groups and interested persons. Additionally NEEDS works with domestic observers in holding regional forums for skills and knowledge development and networking. NEEDS has also produced a handbook on domestic observer work around the world, and conducts some technical assistance with domestic observers. NEEDS aims to promote election observation being conducted systematically and comprehensively with accuracy and impartiality. Through such professional activities, observation missions can substantially contribute to positive electoral environments and developments.



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