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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

THE USE OF ADMINISTRATIVE RESOURCES DURING ELECTORAL CAMPAIGNS

REVISED COMPARATIVE TABLE

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Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Albania	No	No	-	Electoral Code - Article 3 General principles. Article 4 Appointment and duties of the liaison officer. Art. 88 - Prohibition of the use of public resources for the support of electoral subjects. Art. 89 - Financing of electoral subjects through non-public funds. Art. 90 - Registration of non-public funds. Art. 91 - Auditing of electoral campaign funds and expenses. Art. 92 - Selection of auditors by the CEC.	Art. 132 - Electoral Code - equal space for public broadcasting.	Parliamentary elections, June, 28, 2009. OSCE/ODIHR, pag.2,14- allegations of misuse of administrative resource for campaign purposes. PACE - Para.38 - misuse of administrative resources by some electoral candidates.	CDL-AD(2009)005 Joint Opinion on the Electoral Code of the Republic of Albania by the Venice Commission and the OSCE/ODIHR adopted by the Venice Commission at its 78th plenary session (Venice, 13-14 March 2009), §29 ss.
Andorra	Yes	Yes	-	Art. 29, 30, 31 - Law no. 28/207 modifying the Law on electoral regime and referendum. Art. 8 - Law on electoral financing of 15 December 2000.		-	

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Armenia	Yes	Yes	-	Art.22[1] - Election code - prohibition of misusing administrative resources during electoral campaign by public authorities.	Art.18, 19, 20, 21, 22 - Election Code - space on public broadcasting. Art. 26 - Law on political parties - equal state assistance to parties.	Parliamentary Elections, 6 May 2012. OSCE/ODIHR Final Report, pag.2, 12. PACE - Para. 30 - Misuse of administrative resource.	CDL-AD(2008)023 Joint Opinion on the election Code of the Republic of Armenia as amended up to December 2007, §§ 38-39. CDL-AD(2003)021 Joint Recommendations on the Electoral Law and the Electoral Administration in Armenia by the Venice Commission and the OSCE/ODIHR, §16.
Austria	No	No	-	CODICES Constitutional Court 02/12/2000 Two public servants have conserved electoral files and they have modified them		-	
Azerbaijan	Yes	Yes	-	Art.55 - Election Code - prohibition of misuse of administrative resources during campaign by public authorities.	Art.77.1 - Election Code - equal conditions of using public broadcasting for registered candidates.	Presidential election, October, 15, 2008. PACE - Para. 30 - Abuse of administrative resources. Parliamentary Elections 7 November 2010. OSCE/ODIHR Final Report, page 1, 11, 24. PACE - Para. 30, 49.	CDL-AD(2008)011 Joint opinion on the Draft Law on Amendments and changes to the electoral code of the Republic of Azerbaijan, § 33. CDL-AD(2006)018 Report on Electoral Law and Electoral Administration in Europe - Synthesis study on recurrent challenges and problematic issues Adopted by the Council for Democratic Elections at its 17th meeting (Venice, 8-9 June 2006) and the Venice Commission at its 67th plenary session (Venice, 9-10 June 2006), §96.

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Canada	No	No	-	Art. 92.2 - Electoral Law - Prohibition for candidates to accept gifts.		Parliamentary elections, 23 January, 2006. OSCE - Federal funds misused in the referendum campaign in 1995.	
Belgium	No	No	-	Art. 182 Electoral code - Prohibition of promising public jobs. Art. 187 Electoral code - Prohibition for Publics charity to influence the vote of indigent.		-	
Bosnia & Herzegovina	No	No	-	no provision	Art. 15.2 - Election Law - space on public broadcasting.	General elections, October, 01, 2006. OSCE/ODIHR, page 11 - Abuse of administrative resources by some electoral contestants. General Elections, 3 October 2010. OSCE/ODIHR Final Report, page 13.	
Bulgaria	No	No	-	no provision	Art. 11 - Presidential election act - equal space for public broadcasting.	-	

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Croatia	Yes	Yes	Yes	CODICES Constitutional Court 23/04/1997 (warning no.: U-VII-417/1997) Prohibition for representatives of local authorities to control electoral results in case of suspicion of vote rigging Political Activity and Electoral Campaign Financing Act 2011 (apply to all elections). Art. 16.3 - prohibition of use funds from the central or local or regional budget, which are otherwise used by candidates as state or local officials in the performance of their duties Art. 16.4 - prohibition of use the office premises, official vehicles and office equipment of governmental bodies and local and regional governmental units, save for individuals subject to special regulations on protected persons	Political Activity and Electoral Campaign Financing Act 2011(apply to all elections) Art. 12.2 - political parties, independent slates and candidates are obliged to publicly disclose the amount of, and any discount granted thereto on, the price of media advertising for the purposes of their election campaigns. Art. 12.4 - companies providing media advertising services for the purposes of election campaign have to deliver their advertising rates to the State Elections Commission. Art. 36.8 - Electronic Media Act - coverage of all contestants under the equal conditions Art. 29 and 30 - Election of Representatives to the Croatian Parliament Act and Rules of Procedure for Electronic Media with National Concession in the Republic of Croatia during the Election Campaign - coverage of all election contestants on an equal basis	Parliamentary Elections 4 December 2011. OSCE/ODIHR Final Report, page10.	

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				Art. 22.1 - prohibition of financing of political parties, independent deputies, national minority deputies, independent members of the representative bodies of local and regional governmental units, independent slates and candidates by: governmental bodies, public enterprises, legal persons vested with public authority, companies and other legal persons in which the Republic of Croatia or any local and regional governmental unit has any interest or shares, as well as public and other institutions owned by the Republic of Croatia or any local and regional governmental unit; associations, trusts and foundations represented by central government officials, or local or regional officials etc.	Art. 25 - Act on the Election of Municipal Perfects, Mayors, County Perfects and the Mayor of the City of Zagreb and Art 23 - Act on Election of Members to Representative Bodies of Units of Local and Regional Self-Government - local media's obligation to provide coverage of all contestants under the equal conditions Art. 14 - Act on the Election of the President of the Republic of Croatia - equal space on public broadcasting for all candidates		
Cyprus	No	No	-			-	
Czech Republic	No	No	-	CODICES Constitutional Court 26/01/2005 Where a public authority defamed a candidate in an election campaign this meant that the election could not be presented as "honest."	Art.16 (4) - Law on elections to the Parliament - equal space on public broadcasting for registered candidates. Law on the Elections to the European Parliament (§ 59(4)).	-	
Denmark	No	No	-			-	
Estonia	No	No	-	no provision		-	
Finland	No	No	-	Art. 185 Electoral Act Breach of official duty		-	
France				Art. L106 Election Code Prohibition to promise public jobs			

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Georgia	Yes	Yes	Yes	Art. 48 and 49 (As of December 27, 2011) - Unified Election Code - prohibition of misuse the administrative resources during the campaign by public authorities. CEC - Explanatory note on some of provisions of the administrative resources (building, communications means, transporting means).	Art. 50 and 51 (As of December 27, 2011) - Election Code - space on broadcasting.	Parliamentary elections, May, 21, 2008. OSCE/ODIHR, page 7 - opposition alleging one electoral contestant misusing administrative resources. PACE, Point 36 - misuse of administrative resources by authorities. Parliamentary Elections, 1 October 2012. OSCE/ODIHR, OSCE PA, PACE, EP and NATO PA, Statement of preliminary findings and conclusions, page 4. Georgian Young Lawyers' Association Monitoring of the Pre-Election Process for the 2012 Parliamentary Elections of Georgia Monitoring Report January 1, 2012 – March 30, 2012, page 3, 4, 5, 14, 30.	CDL-AD(2010)013 Joint Opinion on the Election Code of Georgia as amended through March 2010, §§ 43-46. CDL-AD(2011)043 Joint opinion on the draft election code of Georgia adopted by the Council for Democratic Elections at its 39th meeting (Venice, 15 December 2011) and by the Venice Commission at its 89th plenary session (Venice, 16-17 December 2011), § 11, 60 ss.
Germany	No	Yes	Yes	Federal Constitutional Court BVerfGE 44, 125 [2 March 1976]: office-holders are required to remain neutral in electoral campaigns as long as they act in the exercise of their duties.	§ 5 Political Parties Act: principle of 'gradual equality', which inter alia takes into account parties' past electoral performance, with regard to campaign-related entitlements of parties.	Parliamentary election of 27 September 2009, OSCE/ODIHR Election Assessment Mission; no objections regarding the use of administrative resources.	
Greece	No	No	-			-	
Hungary	No	No	-	no provision		-	

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Iceland	No	No	-	Art. 124 Electoral Act Breach of official duty Art. 126 Electoral Act prohibition for civil servants to infringe the elections rules		-	
Ireland	No	No	-	Art. 144 - Electoral Act - Prohibition for a returning officer to promote a political party		-	
Italy	No	No	-	no provision		-	
Kazakhstan	Yes	No	-	Art. 27.5 - Constitutional Act on elections in the Republic of Kazakhstan - Prohibition to campaign for officials.		-	
Kyrgyzstan	Yes	No	-	Art. 22.15 - Constitutional Law on presidential et parliamentary elections - Prohibition of certain groups from campaigning. Art. 41.3 - Constitutional Law on presidential et parliamentary elections - prohibition of making donations from state bodies, etc.	Art. 32, Electoral Code - space on public broadcasting.	Presidential elections, July, 23, 2009. OSCE/ODIHR, page 1- misuse of administrative resources in support of the incumbent President. Presidential Election, 30 October 2011. OSCE/ODIHR, Final Report, pag.2, 10, 20.	
Latvia	No	No	-	no provision		-	
Liechtenstein	No	No	-			-	

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Lithuania	No	No	-	Art. 54 - Law on Elections to the Seimas. Art. 47 -Law on Presidential Elections. Art. 52- Law on Elections to the European Parliament. Art. 51 - Law on elections to Municipal Councils - Prohibition to Take Advantage of one's Official Position to Conduct Election Campaign. Part 9 of Art 51 – Law on Elections to the Seimas, Part. 8 of Art 46 - Law on Presidential Elections. Part 8 of Art. 50 - Law on Elections to the European Parliament. Part 10 of Art. 48 - Law on elections to Municipal Councils- Prohibition to install and communicate outdoor political advertising on the buildings occupied by state administration and other stat establishments, inside or outside the vehicles belonging to state or municipal enterprises etc.	Part 1 of Art. 51 - Law on Elections to the Seimas. Part 1 of Art. 46 - Law on Presidential Elections. Part 1 of Art. 50 – Law on Elections to the European Parliament. Part 1 of Art. 48 - Law on elections to Municipal Councils - Equal space for public broadcasting free of charge. Art. 46 - Law on Elections to the Seimas. Art. 41 -Law on Presidential Elections. Art. 45- Law on Elections to the European Parliament. Art. 43 - Law on elections to Municipal Councils - equal right to speak at voters' meetings or any other meetings, gatherings, conferences as well as through the state mass media, and to announce their respective election programmes.	-	
Luxembourg	No	No	-	Art 95 and 96 Electoral Law: Prohibition to receive or give gifts		-	

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
"the former Yugoslav Republic of Macedonia"	Yes	Yes	Yes	Art. 69-a - Electoral Law - restrictive definition of electoral campaign. Art. 78, Paragraph (1) of Electoral Code: " Election posters could be placed on an equal basis, free of charge at the space designed by the municipalities and the town of Skopje. In accordance with Paragraph (2) of the same article:" the municipalities and Skopje as the capital are obligated to mark the authorised place for each submitter of candidate list". Art. 82: Pre-election public meetings cannot be held in military buildings, religious objects, hospitals, institutions for elderly persons, kinder-gardens and other public institutions. By exclusion (Paragraph 2) the campaign organiser could be allowed to organise meetings in above objects if there is no other object, but only upon permission of the authorised organ of the institution and only under equal treatment of all organisers of election campaign. In accordance with Paragraph (4) of the same Article, it is not allowed to use the rooms, equipment or other kind of state or local means. By exclusion, space of mentioned objects could be used if there is no other adequate space, but only under same conditions for all campaign organisers. Article 83, Paragraph (1) of Electoral Code prescribes that:" the election campaign could not be financed by budget resources, with exception of those determined by Article 86, Paragraph (2), which guarantee compensation of election costs from the budget at last for three months after receiving the financial reports on party election spending, based on State Election Commission Report".	Election Code (article 75): Public media are obligated to provide contestants with equal access in presentation their election programmes. Article 6 of the "Rulebook for equal Access to the Media Presentation during the Election Campaign" requires that broadcasters cover elections in a fair, balanced, and impartial manner. They must also provide equitable access. The coverage of electoral contestants is proportional to the number of electoral districts in which the contestant is running.	OSCE/ODIHR, Presidential and municipal elections, March, 22, and April, 05, 2009, page 13- claims made by parties on misuse of resources by the Government; Pag.12, report of Min. of Interior on misuse of official position and authority.	CDL-AD(2009)032 Joint opinion on the Electoral Code of "the former Yugoslav Republic of Macedonia" as revised on 29 October 2008 by the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights, adopted by the Council for Democratic Elections at its 29th Plenary Session (Venice, 12-13 June 2009). § 48.

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						OSCE/ODIHR Final Report on Early Parliamentary Elections from 5 June 2011stated misuse of state resources for campaign purposes, which detracted from the overall quality of the election process(Pag.2). It also says that " requirements that municipalities designate free space for placement of posters on an equal basis were inconsistently applied". Further, it is said that: " there were instances when the Minister of Internal Affairs , who was also a leading VMRO-DPMNE candidate, used the authority of her office for campaign purposes. The results of OSCE/ODIHR EOM media monitoring showed that MTV-1 coverage of the campaign favoured the governing parties (Page 14). PACE - Par. 29, 34, Appendix 2.	
Malta	No	No	No	no provision		-	

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Moldova	Yes	Yes	-	Electoral Code Art. 13, par.3 Obligation for persons which hold position of high responsibility to suspend its activity in the position they hold since their registration as candidates. Art. 46, par.1, 2. Equal right for electoral contestants in the use of mass media and equal opportunities for technical, material and financial support of the electoral campaign. Art. 47, par.6. Prohibition to use administrative resources and equal access to public goods or services. Art. 64, par. 2, 3, 4, 5. Equal and non-discriminatory access to mass media.	Broadcasting Code Art. 7, par.3. Obligation of broadcasters to reflect electoral campaigns in truthful, balanced and impartial manner.	Early Parliamentary Elections, July, 29, 2009. OSCE/ODIHR page 9, 14 PACE - Point 46 - misuse of administrative resources. Local Elections, 5 and 19 June 2011. OSCE/ODIHR Report, pag.10, 11, 17.	CDL-AD(2010)014 Joint Opinion on the Draft Working Text amending the election Code of Moldova, § 37. CDL-AD(2007)033 Opinion on the Law of the Gagauz Autonomous Territorial Unit on the Election of the Governor of Gagauzia (Moldova) adopted by the Council for Democratic elections at its 22nd meeting (Venice, 18 October 2007) and the Venice Commission at its 72nd plenary session (Venice, 19-20 October 2007),§ 69. CDL-EL(2005)048rev Draft Joint Recommendations on the Electoral Code of Moldova as amended on 22 July and 4 November 2005 (E. Polizzi, E. Polizzi), §§62, 65-68, 103. CDL-AD(2006)001 Joint Opinion on the Electoral Code of Moldova as amended on 22 July, 4 and 17 November 2005 by the Venice Commission and OSCE/ODIHR adopted by the Council for Democratic Elections at its 15th meeting (Venice, 15 December 2005) and the Venice Commission at its 66th plenary session (Venice, 17-18 March 2006), §112.

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Monaco	No	No	-	Art. 61 Electoral Law : Prohibition to use billboards for thanking voters Art. 69 Electoral Law on national and municipal elections: Prohibition to promise public jobs		-	
Montenegro	No	Yes	-	Art. 22 - Law on election of the president - prohibition of the candidate for President to use administrative resources during the electoral campaign. Art. 40 - Law on election of the Mayor - penal provision incriminating individuals to provide illegal access of administrative resources to electoral contestants.		Montenegro - Early Parliamentary Elections, 14 October 2012, OSCE/ODIHR, OSCE PA, PACE, page 1, 9.	CDL-AD(2011)011 Joint opinion on the draft law on amendments to the law on election of councillors and members of Parliament of Montenegro endorsed by the Council for Democratic Elections at its 37th meeting (Venice, 16 June 2011) and by the Venice Commission at its 87th plenary session (Venice, 17-18 June 2011), §43.
Netherlands	No	No	-	no provision		-	
Norway	No	No	-			-	
Poland	No	No	-		Art. 83a - Law on election of the President - equal space for public broadcasting.	-	
Portugal	Yes	No	-	Art. 57 - Electoral Act of Parliament - prohibition of intervention of public bodies and local public services directly or indirectly in a campaign	Art. 153 - Electoral Law - prohibition of misuse of public function for campaigning purposes.		
Romania	No	No	-	no provision	Art. 16 - Law on the election of the President - space on public broadcasting.	-	

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Russian Federation	No	No	-	Art. 46 Law on Elections of Deputies of the State Duma of the Russian Federation - a ban on the use of the benefits office or official position during the election campaign	Art. 51, 53 - Law on election of the President - equal space for public broadcasting.	Presidential elections, March, 14, 2004. OSCE/ODIHR, page 10 – Credible allegations of misuse of administrative resources. OSCE/ODIHR, page 15 – Impartiality of public broadcasters. Presidential election, March, 2, 2008. PACE, Point 17 - wide scale abuse of administrative resources for an electoral contestant. Presidential Election 4 March 2012. OSCE/ODIHR Final Report, page 1, 10, 16. PACE, par. 30, 56, 61; Appendix 3, 5. Elections to the State Duma, 4 December 2011. OSCE/ODIHR Final Report, page 17.	CDL(2012)026 Comments of the Institute of Legislation and Comparative Law under the Russian Federation government on the Federal Law on elections of deputies of the state Duma of the Federal Assembly of the Russian Federation, §Q2. CDL-AD(2006)018 Report on Electoral Law and Electoral Administration in Europe - Synthesis study on recurrent challenges and problematic issues Adopted by the Council for Democratic Elections at its 17th meeting (Venice, 8-9 June 2006) and the Venice Commission at its 67th plenary session (Venice, 9-10 June 2006), §96.
Serbia	No	No	-	no provision		-	
Slovakia	No	No	-	no provision	Art. 15 - Presidential Election Code - equal access to mass-media. Section 24/13 - Act on Election to the National Council - equality on broadcasting of political advertisements and placing of election posters.	-	

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Slovenia	No	No	-	no provision		-	
Spain	Yes	No	-	Art 52, 144.2 Organic General Electoral Law: Prohibition for members of the Armed Forces, Police (of the State, Autonomous Communities or Municipalities) judges, prosecutors and members of the election commissions to participate at electoral campaign. Art. 135- 153 Organic General Electoral Law: Offences committed by public servants during election campaign, such as misconduct in public office and falsehood. Art 128.1 Organic General Electoral Law: Ban on public funds other than the election subsidies established in the Law.	Art. 61 Organic General Electoral Law: Proportional spaces for campaigning in public broadcasting Art 66 Organic General Electoral Law: Public mass media and private broadcasts must respect pluralism and neutrality principles during election period.	-	
Sweden	No	No	-			-	
Switzerland	No	No	-	no provision		-	
Turkey	Yes	No	-	Art. 63, 64, 65- Law on Basic Provisions on Elections and Voter Registers- prohibition of misuse of administrative resources during the electoral campaign by public authorities.		-	

Country	Elect. code/ law	Other legal provisions	Other sources	Provisions on administrative resources	Provisions on mass-media	EOMs reports (OSCE/ODIHR, PACE) *	Venice Commission Opinions and Studies
Ukraine	No	Yes	-	Art. 61/4 and Art. 74/1, 21 - Law of Ukraine on elections of people's deputies of Ukraine - prohibition of misuse of administrative resources during campaign by public authorities.	Art. 71 - Law of Ukraine on elections of people's deputies of Ukraine - equal access to mass-media	OSCE/ODIHR, PACE - Presidential Election, 17 January and 7 February 2010, pages 2, 14 - reported misuse of administrative resources by some candidates. Parliamentary Elections, 28 October 2012 OSCE/ODIHR, OSCE PA, PACE, EP and NATO PA, Statement of Preliminary Findings and Conclusions, pages 1, 2, 7, 8.	
United Kingdom	No	No	-	Art. 63 of Keeling Schedule for the Representation of the People Act 1983 as amended by the Electoral Administration Act 2006 Breach of official duty. Art. 101of Keeling Schedule for the Representation of the People. Act. 1983 as amended by the Electoral Administration Act 2006 no hiring of public vehicles to convey voters.		-	

*** Reports on the latest Election Observation Missions conducted by OSCE/ODIHR and PACE, as of November, 21, 2012.**