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## Observation of the parliamentary elections in Morocco (25 November 2011)

Report

Bureau of the Assembly

Rapporteur: Mr Tomáš JIRSA, Czech Republic, European Democrat Group

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### 1. Introduction

1. In response to the letter of invitation sent by Mr Driss El Yazami, President of the Moroccan National Human Rights Council, the Bureau of the Assembly decided, at its meeting on 8 September 2011, to set up an ad hoc committee comprising 20 members to observe the parliamentary elections to be held on 25 November 2011. The Bureau also authorised a pre-election visit by five members – one from each political group – who were also members of the ad hoc committee.

2. On 4 October 2004, a co-operation agreement was signed between the Parliamentary Assembly and the European Commission for Democracy through Law (Venice Commission). In keeping with that agreement, the Bureau of the Assembly invited a member of the Venice Commission to join the ad hoc committee as an adviser.

3. The membership of the ad hoc committee, based on the proposals of the Assembly's political groups, was as follows:

Mr Tomáš JIRSA, Head of Delegation

#### Group of the European People's Party (EPP/CD)

Mladen GRUJIĆ	Serbia
Jan KAŹMIERCZAK	Poland
Yves POZZO di BORGO	France
Mehmet TEKELIOĞLU	Turkey

**Socialist Group (SOC)**

Khadija ARIB	Netherlands
Joe BENTON	United Kingdom
Josette DURRIEU	France
Francine JOHN-CALAME*	Switzerland
Pietro MARCENARO	Italy
Stefan SCHENNACH	Austria

**European Democrat Group (EDG)**

Sergey EGOROV	Russian Federation
Tomáš JIRSA*	Czech Republic

**Alliance of Liberals and Democrats for Europe (ALDE)**

Margus HANSON*	Estonia
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**Unified European Left Group (UEL)**

Katřin WERNER	Germany
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**Venice Commission**

Jacqueline de GUILLENCHMIDT, Substitute Member of the Venice Commission

**Secretariat**

Chemavon CHAHBAZIAN, Deputy Head of the Secretariat, Interparliamentary Co-operation and Election Observation Unit

William MASSOLIN, Head of the Parliamentary Assistance Unit

Francesc FERRER, Deputy head of the Parliamentary Assembly Communication Unit

Franck DAESCHLER, Principal administrative assistant, Interparliamentary Co-operation and Election Observation Unit

Fatima NOUICER, Assistant, Secretariat of the Parliamentary Assembly

\* pre-election visit

4. The ad hoc committee went to Morocco from 22 to 26 November 2011 and held talks, *inter alia*, with the following key figures and political party representatives; Mr Driss El Yazami, President of the Moroccan National Human Rights Council; Mr Nour-Eddine Boutayeb, Secretary General of the Ministry of the Interior; Mr Ahmed Ghazali, President of the High Authority on Audiovisual Communications; representatives of the international community present in Morocco; representatives of the media and representatives of civil society. The programme of meetings of the ad hoc committee is set out in Appendix 1. The ad hoc committee wishes to thank the Moroccan authorities for their help in organising this visit.

5. On polling day, the ad hoc committee split into 10 teams which visited 171 polling stations and observed the elections in the following towns and regions: Rabat and its region, Khemisset, Meknes, Kenitra, Moulay Idriss, Rommani, Ben Slimane, Casablanca and its region, Marrakech and its region and Tangier and its region.

6. The ad hoc committee concluded that “the parliamentary elections held in Morocco on 25 November 2011 went off calmly, allowing the voters to choose freely among the different political parties”. However, the delegation noted that it had been “informed of a number of alleged irregularities during the election campaign. They concerned cases of vote-buying, undue use of administrative resources, and also intimidation and exertion of pressure, particularly in respect of those who had called for a boycott of the elections”. The press release issued at the end of the elections is reproduced in Appendix 2.

**2. Political context and legal framework**

7. Initially, the parliamentary elections were to have taken place in 2012, but, following the events of the “Arab spring” and the adoption of the new Moroccan Constitution by referendum held on 1 July 2011, the date of 25 November was set.

8. On 21 June 2011, the Assembly adopted Resolution 1818 (2011) granting the Moroccan Parliament “partner for democracy” status with the Parliamentary Assembly. It emphasised the importance of free and fair elections as the cornerstone of a true democracy and expressed the expectation that, consequently, it would be invited to observe the parliamentary elections in Morocco as from the early elections expected in 2011.

9. A pre-election visit to Morocco took place from 9 to 12 November 2011 in order to assess the state of preparations and the political climate in the run-up to the parliamentary elections of 25 November 2011.

10. The pre-election visit team met with Mr Abdelwahed Radi, Speaker of the House of Representatives; Mr Mohamed Cheikh Biadillah, Speaker of the House of Counsellors; the chairs and representatives of the political groups represented in Parliament; Mr Nour-Eddine Boutayeb, Secretary General of the Ministry of the Interior; Mr Ahmed Ghazali, President of the High Authority on Audiovisual Communications; Mr Driss El Yazami, President of the Moroccan National Human Rights Council; Mr Nabil Adghoghi, Director at the Ministry of Foreign Affairs and Co-operation; Mr Eneko Landaburu, Head of the European Union Delegation in Morocco, and representatives of the media.

11. At the end of the visit, the pre-election visit team reiterated to its interlocutors that Assembly Resolution 1818 (2011) invited Morocco to hold “free and fair elections in accordance with relevant international standards”, and enhance “public interest in, and awareness of, the democratic process, as well as ensuring a higher level of participation in elections”.

12. The legal framework for parliamentary elections is governed by the new Constitution and implementing acts concerning the House of Representatives, political parties, conditions and procedures for the independent and neutral observation of elections, as well as a number of decrees on supervision of election campaigning and its funding. The latest amendments to the electoral legislation were adopted in October 2011, virtually during the run-up to the elections. The very short time in which changes were to be put into effect caused difficulties in implementing certain electoral procedures, particularly at the level of polling stations.

13. The new Constitution states that the single party system is illegal. In addition, political parties may not be founded on a religious, linguistic, ethnic or regional basis or, more generally, any other basis that is discriminatory or contrary to human rights. They may not pursue aims of undermining the Muslim religion, monarchic system, constitutional principles, democratic foundations or national unity and territorial integrity of the Kingdom.

14. The voting process is complex. For the 395 seats to be filled in the House of Representatives, the country is divided into 92 constituencies, and there is a fixed number of seats allocated to each constituency ranging from two to six. Accordingly, 305 deputies were elected in 92 constituencies and, for the first time, the other 90 representatives were elected from a countrywide list reserved for 60 female candidates and 30 male candidates under 40 years of age. The electoral threshold for the countrywide list was 3%; for the proportional local lists, it was 6%.

15. The members of the House of Representatives are elected for a five-year term. Any member of the House of Representatives who relinquishes the political affiliation under which they stood for election or membership of their parliamentary group or grouping, forfeits their office. As far as immunity of parliamentarians in office is concerned, Article 64 of the Constitution stipulates that no member of Parliament may be prosecuted, subject to a search warrant, arrested, detained or judged on grounds of an opinion expressed or a vote cast by them in the exercise of their duties, except where the opinion expressed challenges the monarchic form of the state or the Muslim religion or constitutes a violation of the respect due to the King.

### **3. Administration of elections, voter lists and candidate registration**

16. The elections are organised by the Ministry of the Interior. Some 40 000 polling stations were opened for the elections of 25 November 2011. Each polling station comprises a president and three members, designated by the governor of the province from among state officials or staff of public administrations, local authorities or public establishments, who must be impartial. The law provides for the presence of representatives of political party lists in polling stations on voting day, and they may also be present during the vote-counting.

17. The provincial commissions comprise the president of the court of first instance or a member of the judiciary delegated by them, two voters and one representative of the governor acting as secretary. The national commission comprises one chamber president at the Court of Cassation, one judge from the administrative chamber of the Court of Cassation and one representative of the Ministry of the Interior.

18. All Moroccan citizens aged 18 years and over have the right to vote as long as they have full civil and political rights and do not present any of the disqualifying criteria provided for in law. Moroccan citizens residing abroad have full citizens' rights, including the rights to vote and to stand for election. The pre-

election visit team was informed that there would not be any constituencies or polling stations in foreign countries. Consequently, Moroccans living abroad could vote either by proxy or by travelling to Morocco.

19. According to the data of the Ministry of the Interior, some 13.4 million voters were registered on the electoral lists. Since exhaustive voter lists are a key factor in the electoral process, the Assembly delegation found that the current electoral system fails to encourage the registration of large numbers of citizens. It appeared that a considerable proportion of the 20 million or so Moroccans who were of legal voting age did not appear on the lists. Since the 2007 elections, the number of voters on the lists had fallen by several million. Furthermore, the procedure for voting by proxy for Moroccan citizens residing abroad does not facilitate the exercise of the constitutional right to vote.

20. As far as the registration of lists of candidates from political parties and coalitions was concerned, the political parties were allowed to register their lists of candidates from 3 to 11 November. According to the data of the Ministry of the Interior, 31 political parties, of the 35 registered at the Ministry of the Interior, submitted lists of candidates within the stipulated time limits in order to participate in the elections of 25 November; three political parties decided to boycott the elections and one party did not take part in the elections.

21. To be eligible, a candidate must be a registered voter of 23 years of age or over at the date of the vote. In total, 5 392 candidates were standing on 1 546 local lists, which represented an average of 17 lists per constituency, but only 8 parties were able to put forward candidates in 80 constituencies of the 92 mapped.

22. Leading officials at the Ministry of the Interior informed the delegation members of the procedures for voting, vote-counting and declaring election results, as well as the recent amendments to the implementing acts relating to the elections of 25 November, passed less than one month before polling day.

23. Some procedures prompted questions on the part of delegation members. Under Article 79 of the implementing act concerning the House of Representatives, the voting slips that were deemed valid and not contested were burnt in the presence of the voters in polling stations, following the counting and recording of votes and the declaration of results by the polling station. This procedure, enshrined in law, rules out any possibility of recounting votes in the event of court challenges to election results.

#### **4. Election campaigning and media environment**

24. Pre-election campaigning began on 12 October and took place in a peaceful atmosphere. Most of those spoken to by the members of the ad hoc committee voiced worries that there might be a low turnout at the elections, as had been the case in 2007 when around 37% of registered voters had turned out to vote. On 31 October, the Minister of the Interior approached the leaders of the main political parties represented in Parliament and asked them to urge voters to turn out on 25 November.

25. Those people that the ad hoc committee spoke to gave various explanations for this phenomenon: the very short campaigning period, which officially began on 12 November; the lack of faith of certain voters in the electoral process due to undemocratic practices experienced in the past; a lack of trust in the political parties.

26. When meeting with the heads and representatives of the political parties, the Assembly delegation stressed the importance of the active participation of Moroccan citizens in the parliamentary elections of 25 November 2011, which could help to restore citizens' faith in the democratic process and reinforce the legitimacy of the newly elected parliament.

27. Most political party representatives were convinced, irrespective of their political leanings, that there had been a change in the institutional pattern of powers following the adoption of the new Constitution. Under Article 47 of the new Constitution, the King appoints the head of government from the party which scores highest in the elections for members of the House of Representatives.

28. This innovation radically changed the face of the elections of 25 November 2011, by substantially upping the political stakes of the parliamentary elections. In choosing their parliamentarians, Moroccan voters were potentially choosing the head of government, even though the Prime Minister's powers remain limited. It marked the beginning of a change in relations between the monarchy and the constitutional institutions.

29. At the beginning of October, a "Coalition for democracy" of eight political parties was set up at the initiative of the National Rally of Independents party (RNI). The coalition comprised the RNI, the

Constitutional Union (UC), the Authenticity and Modernity Party (PAM), the Labour Party (PR), the Green Left Party (PGV), the Socialist Party (PS), the Popular Movement (MP) and Al Fadila. The heads of the coalition parties stated that the coalition was open to other parties. A number of the ad hoc committee's talking partners were perplexed by the piecemeal nature of the coalition, which brought together parties with different political leanings.

30. The setting up of the coalition was criticised by the representatives of the Istiqlal party, whose leader, Mr El Fassi, had been appointed Prime Minister after the previous parliamentary elections in 2007. According to Mr El Fassi, with the creation of the "Coalition for democracy" a few months before the elections, the majority had teamed up with the opposition, and the coalition would have no common ground.

31. The representatives of the Justice and Development Party (PJD) were highly critical in their assessment of the election campaign. In particular, they raised the following issues:

- the official election campaign, of around two weeks, was too short;
- the high number of polling stations complicated the observing of the elections by political parties which did not have enough representatives for each polling station;
- cases of vote-buying by people who had grown rich through corruption; vote-buying was more common in rural localities where poorer people were targeted: according to various estimates, around 35% of the population is illiterate, mainly in rural localities;
- cases where improper use was made of administrative resources;
- the danger of electoral fraud on polling day;
- cases of intimidation.

32. It was difficult for the ad hoc committee to make any judgment regarding this criticism and examples of possible irregularities. Nevertheless, the delegation noted that the number of claims and testimonies from citizens concerning unlawful practices increased in the days leading up to the vote. The Moroccan Organisation for Human Rights (OMDH) was notified of cases of corruption, fraud, vote-buying and intimidation and arrests of boycott supporters.

33. A few days before the vote, the first instance court in Kenitra, where the delegation deployed a team of observers, sentenced a candidate heading a party list in the constituency of Sidi Slimane to two years' imprisonment for electoral fraud. The candidate was alleged to have offered a sum of money to someone in exchange for their vote. In Fes, a few days before the vote, complaints were apparently lodged over cases of vote-buying and corruption. A regional unit of judges was set up at Fes Appeal Court to examine those complaints.

34. Various talking partners emphasised the need to guarantee the transparency of the entire electoral process and the neutrality of the authorities. Some expressed concern over the opaque nature of election campaign funding sources. In this connection, the Assembly delegation noted that the electoral legislation had been improved, facilitating the organisation of free and fair elections, provided that it is properly adhered to by the main political players.

35. Media coverage of the elections is essentially governed by the Law on audiovisual communication and the Decree on the use of public audiovisual media during election and referendum campaigning. The leading officials of the High Authority on Audiovisual Communications (HACA) gave the ad hoc committee a presentation on media monitoring during election campaigning, intended to demonstrate that the audiovisual media had guaranteed a fair amount of airtime for political parties taking part in the elections.

36. Given the substantial number of political parties participating in the elections, the High Authority on Audiovisual Communications decided to divide the political parties into three categories in order to ensure fair access to the media during election campaigning. The first category comprised the eight parties with a parliamentary group in one of the two houses of Parliament; the second category – the 11 political parties represented in Parliament; and the third category – the 16 parties not represented in Parliament. The first two categories were entitled to 35% of overall airtime on Moroccan audiovisual channels, and the third category to 30%.

37. Generally speaking, the media coverage of the election campaign was balanced and diverse, and all the political tendencies were represented. Even so, the delegation noted that the airtime granted to female candidates was only some 8% of the total. The delegation was also informed of instances of pressure being exerted and intimidation and arrest of journalists, particularly bloggers who called for a boycott of the elections.

## 5. Polling day

38. Polling day went off quietly, and the voters were able to choose freely among the different political parties. The 10 Assembly teams observed the elections in 171 polling stations in the following towns and regions: Rabat and its region, Khemisset, Meknes, Kenitra, Moulay Idriss, Rommani, Ben Slimane, Casablanca and its region, Marrakech and its region and Tangier and its region. The ad hoc committee members' assessment of voting was very positive, including where vote-counting was concerned. The teams did not find any irregularities. Nevertheless, certain shortcomings were noted by members of the ad hoc committee:

- difficulties experienced by the illiterate, chiefly women in rural localities, in voting without assistance;
- the design of voting slips caused voters to confuse national and local lists, resulting in a substantial number of invalid voting slips, up to 10% in some polling stations;
- cases of inaccuracies in voter lists which prevented some people from voting;
- polling stations are not accessible to those with reduced mobility;
- cases where polling station officials failed to comply with certain voting and vote-counting procedures. This did not appear to be intentional;
- the ballot boxes were not sealed, but locked with small padlocks;
- polling station members did not have full information on the recent changes to electoral legislation;
- polling station members included very few women. Of the 171 polling stations visited, only four women held the post of polling station president.

39. According to the definitive results of the Moroccan Ministry of the Interior, turnout was 45.4%. The following parties won seats in the House of Representatives:

- Justice and Development Party: 107 seats;
- Istiqlal Party: 60 seats;
- National Rally of Independents: 52 seats;
- Authenticity and Modernity Party: 47 seats;
- Socialist Union of Popular Forces: 39 seats;
- Popular Movement: 32 seats;
- Constitutional Union: 23 seats;
- Progress and Socialism Party: 18 seats;
- Labour Party: 4 seats;
- Democratic and Social Movement: 2 seats;
- Party of Renewal and Equity: 2 seats;
- Environment and Sustainable Development Party: 2 seats;
- Al Ahd Addimocrati Party: 2 seats;
- Green Left Party: 1 seat;
- Party of Liberty and Social Justice: 1 seat;
- Front of Democratic Forces: 1 seat;
- Action Party: 1 seat;
- Union and Democracy Party: 1 seat.

These results include the seats obtained under the countrywide list system, which provides 90 seats, 60 of them for women and 30 for men under 40 years of age.

## 6. Conclusions

40. The Parliamentary Assembly's ad hoc committee to observe the parliamentary elections to the House of Representatives of Morocco concluded that the parliamentary elections of 25 November 2011 took place in a calm atmosphere, with voters able to choose freely among the different political parties.

41. The ad hoc committee noted with satisfaction that, following the adoption of the new Constitution of 1 July 2011, the Moroccan authorities have improved the electoral framework, facilitating the organisation of free and fair elections, provided that it is properly implemented. However, the delegation regrets that the

amendments to the electoral legislation were passed only at a very late stage, less than one month before the launch of the official campaign, which is incompatible with the electoral standards and practices recommended by the Council of Europe.

42. On 11 November 2011, the Assembly's pre-election delegation expressed its concerns when visiting Rabat over the possibility of a low turnout, as had been the case in 2007. In a message aimed at the main political players and Moroccan voters, it stressed that an active participation in the elections could help to restore citizens' faith in the democratic process and reinforce the legitimacy of the newly elected Parliament. In this respect, the delegation welcomes the efforts made by the authorities, and the political parties, to encourage citizens to participate more actively in the elections.

43. The delegation was informed of a number of irregularities alleged to have taken place during the election campaign, including serious cases of electoral corruption, vote-buying, improper use of administrative resources, and also intimidation and exertion of pressure, particularly in respect of those who had called for a boycott of the elections.

44. On this point, the ad hoc committee asks the competent Moroccan authorities to do their utmost to elucidate these allegations and establish responsibility and notify the public and the Parliamentary Assembly of their findings as swiftly as possible. The ad hoc committee believes it vital to prevent the recurrence of such practices at future elections, failing which it would be difficult to reinforce Moroccan citizens' confidence in the democratic functioning of their institutions.

45. Media coverage of the campaign by the different parties standing for election was generally fair. However, the delegation is keen to emphasise that it is essential that any media coverage, if it is to be balanced, must properly reflect the expressions of all shades of opinion, including those advocating abstention or a boycott of the elections.

46. The ad hoc committee considers that, throughout the election campaign, the High Authority on Audiovisual Communications and the Moroccan National Human Rights Council carried out remarkable work to strengthen both co-operation with the international observers and confidence in the electoral process.

47. The ad hoc committee invites the authorities of Morocco to carry out in-depth analysis of the organisation of the parliamentary elections of 25 November 2011, the first to be held since the adoption of the country's new Constitution and also the recent changes to electoral legislation. As Morocco is a member of the Council of Europe's Venice Commission, the ad hoc committee believes that this work should be carried out in close co-operation with the Venice Commission with a view to improving electoral legislation as well as certain practical aspects of organising voting and, more generally, the electoral process as a whole before the next elections.

48. The ad hoc committee stresses the need to step up co-operation between the Parliamentary Assembly and the newly elected Parliament within the framework of Resolution 1818 (2011) on partner for democracy status.

## Appendix 1

### Programme

#### Wednesday 23 November 2011

- 9:00 Ad hoc committee meeting:
- Opening of the meeting, welcoming address and information on the pre-electoral mission by Mr Tomáš Jirsa, Head of the Delegation
  - Briefing by other members of the pre-electoral mission
  - Recent developments in the field of election legislation, Venice Commission, by Ms Jacqueline de Guillenchmidt, Expert of the Venice Commission
  - Practical and logistical arrangements, Secretariat
- 10:15 – 11:00 Meeting with Mr Driss El Yazami, President of the National Human Rights Council
- 11:00 – 11:45 Meeting with media representatives
- 11:45 – 12:15 Meeting with NGO representatives involved in election observation
- 12:15 – 13:15 Meeting with Mr Nour-Eddine Boutayeb, Secretary General of the Ministry of the Interior, and Mr Hassan Aghmari, Governor/Director of Elections
- 14:45 – 15:30 Meeting with Ms Cecile Abadie, Head of Political Section, European Union Delegation in Morocco – Political background, electoral campaign
- 15:30 – 16:15 Meeting with Mr Ahmed Ghazali, Chair of the High Authority for Audiovisual Communication and members of his team – presentation of the media coverage aspects of the electoral campaign
- 16:15 – 18:35 Meeting with the chairs of the parliamentary groups of the House of Representatives:<sup>1</sup>
- Ms Latifa Bennani Smires, President of the Istiqlal Unity and Egalitarian Group
  - Mr Amara, representative of the Justice and Development Group
  - Ms Aïcha Glkaa, representative of the Socialist Group

#### Thursday 24 November 2011

- 9:30 – 11:00 Election day observation – practical and logistical issues  
Deployment  
Meeting with the drivers and interpreters of the teams of the ad hoc committee

#### Friday 25 November 2011

- All day Observation of the opening, voting and counting procedures

#### Saturday 26 November 2011

- 9:30 Debriefing meeting of the ad hoc committee
- 11:30 Press conference of the ad hoc committee

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<sup>1</sup> The parliamentary groups are invited following the French alphabetical order for a 20-minute meeting (for each group) with the Assembly delegation.



## Appendix 2

### Parliamentary elections in Morocco: statement by the PACE observer mission

Strasbourg, 26.11.2011 – The parliamentary elections held in Morocco on 25 November 2011 went off calmly, allowing the voters to choose freely among the different political parties.

The delegation from the Parliamentary Assembly of the Council of Europe (PACE) notes with satisfaction that following the adoption of the new Constitution on 1 July 2011, the Moroccan authorities improved the electoral framework, which facilitates the organisation of free and fair elections, provided this text is properly implemented. The delegation does, however, regret that the amendments to the electoral legislation were adopted late, less than one month before the launch of the official campaign, which is incompatible with the Council of Europe's recommendations on electoral practices.

The delegation welcomes the increased turnout as compared with previous parliamentary elections. Despite the brevity of the election campaign, which officially began on 12 November, the main political players managed to motivate the electorate, which was one of the major issues at stake in this poll.

According to Ministry of the Interior statistics, some 13.4 million Moroccan citizens were on the electors' lists. As exhaustive electoral registers were a key element in the electoral process, the delegation regrets that, according to some of the people it spoke to, the current election system fails to encourage the registration of large numbers of citizens. A considerable proportion of the 20 million or so Moroccans who are of legal voting age were left off the lists. In this connection, the delegation also stresses that the procedure for voting by proxy, aimed at Moroccan citizens who reside abroad, does not facilitate the exercise of the constitutional right to vote.

The delegation was informed of a number of alleged irregularities during the election campaign. They concerned cases of vote-buying, undue use of administrative resources, and also intimidation and exertion of pressure, particularly in respect of those who had called for a boycott of the elections. Consequently, the delegation has asked the relevant authorities to fully elucidate these allegations and, should they prove founded, to establish the responsibilities and notify the Moroccan population and the international observers as quickly as possible. It is vital to prevent the recurrence of such practices at future elections, so as to reinforce the Moroccan citizens' confidence in the democratic functioning of their institutions.

The delegation would like to highlight the remarkable work of the High Authority on Audiovisual Communications. The media coverage of the campaigns by the opposing parties was generally fair. However, the delegation stresses that it is vital for any balanced media coverage to properly reflect the expressions of all shades of opinion, including those advocating abstention.

The delegation salutes the remarkable work of the Moroccan National Human Rights Council throughout the election campaign.

It recalls that the Assembly is prepared to step up its co-operation with the newly elected Parliament in the framework of Resolution 1818 (2011) on "Partner for Democracy" status, and encourages the authorities to intensify their co-operation with the Council of Europe's Venice Commission in order to improve electoral legislation.

PACE will be adopting its final report on the election observation on 23 January 2012 in Strasbourg.