

Electoral Council Annual Report 2007

Publication

Electoral Council
P.O. Box 20011
2500 EA The Hague

Contact

Secretariat of the Electoral Council
T 070 426 6266
F 070 426 6489
E kiesraad@kiesraad.nl
www.kiesraad.nl

Physical address

Herengracht 21
The Hague

The Hague, May 2008

ISBN: 978-90-78056-10-2

No part of this annual report may be reproduced and/or published by printing or photocopying it or by any other means without express reference to the source.

Contents

Foreword	5
1 Introduction	7
2 Duties and composition	9
3 Organisation and working method	11
4 The Electoral Council as an advisory body	13
5 The Electoral Council as an independent administrative body	17
5.1 General	17
5.2 Provincial council elections (7 March 2007)	17
5.3 Senate elections (29 May 2007)	18
5.4 Filling interim vacancies	20
6 Registration of an appellation	23
6.1 Registration applications	23
6.2 Advice about the registration of political groupings	24
6.3 Interpretative policy rule	24
6.4 Water boards decree	24
7 Court cases	27
8 Criminal offences relating to elections	29
9 Communication	33
9.1 General	33
9.2 Elections Information Centre	33
9.3 The Government Information (Public Access) Act	34
9.4 Contact with the media	34
9.5 Organised meetings	34
9.6 Available information	35
10 International developments	37
11 Finances	39
Annexes:	
1 Overview of the advice issued in 2007	41
2 Overview of court cases in which the Electoral Council was involved	44
3 Electoral Council Complaints Handling Scheme	48
4 Electoral Council Mandate Decision	58
5 Policy rule on the notation of an appellation	61

Foreword

This is the annual report of the Electoral Council for the year 2007, in various respects an interesting electoral year.

The Electoral Council considers the publication of an annual report important for two reasons. With it the Council wishes to account for its activities in the year in question and, for a wider public, provide an insight into its work.

In 2007 provincial council elections as well as Senate elections were held, on 7 March and 29 May respectively. In addition, two major reports about the electoral process appeared in 2007. In April the Voting Machines Decisions Committee (*Commissie Besluitvorming Stemmachines*) issued a report entitled 'Voting Machines, a neglected dossier' (*Stemmachines, een verveesd dossier*).¹ This report listed recommendations for both the short and medium terms about voting machines legislation. Autumn saw the publication of the report 'Voting with confidence' (*Stemmen met vertrouwen*) issued by the Advisory Committee on the Voting Process Mechanism (*Adviescommissie inrichting verkiezingsproces*), after which the cabinet adopted a position on the matter.² These two reports will form the basis for a proposal to amend the relevant legislation in 2008. The Electoral Council has issued an outline response both to the reports and the cabinet position. The Electoral Council will give a more detailed response when issuing its advice about the legislative proposal to implement the intentions.

On 21 October 2007 the state secretary withdrew the 'Regulation on the requirements and approval of voting machines 1997' (*Regeling voorwaarden en goedkeuring stemmachines 1997*),³ as a result of which voting will again be done by pencil and paper in all municipalities, at least in the June 2009 European Parliament elections. This signifies a major change in the mechanics of election procedure. The Electoral Council has every confidence that, with the requisite municipal efforts, this change will not be problematic.

In 2007 the Electoral Council issued eight advice papers and two responses (regarding the two aforementioned reports). The subjects of advice varied from the registration procedure of appellations, canvassing of proxy votes and declarations of support, to the draft Water Boards Decree and an evaluation of the elections held over the last two years.

And finally the Netherlands was the target of international attention. GRECO (Group of States against Corruption, a committee accountable to the Council of Europe) visited the Netherlands – including the Electoral Council – to evaluate the supervision of financing to political parties. GRECO's report is expected in the summer of 2008.

In addition to all these issues of actual substance, 2007 was a special one because it marked the Council's 90th anniversary. This was the occasion for a symposium about 'Fraud and manipulation' (*Fraude en ongewenste beïnvloeding*) examined from historic, contemporary and international perspectives. Speakers included Ms A.Th.B. Bijleveld-Schouten, state secretary of the Interior and Kingdom Relations, Mr Sam Younger, chairman of the British Electoral Commission, Mr S. Lukowski, Public Prosecutor, and Mr R. de Jong, an Electoral Council researcher.⁴

It will be evident from this annual report that much occurred in 2007. Observing the events and comparing them with a number of developments in other countries, we are able to note with some satisfaction that elections in the Netherlands are still outstanding examples of democracy at work. What also emerges is that in the Netherlands, as the study shows⁵, there is great confidence in the electoral process. Working on preserving this confidence is what the Electoral Council sees as its most important task in the years to come.

¹ Parliamentary documents II, 2006-2007, 30 800 VII, no. 46.

² Parliamentary documents II, 2007-2008, 31 200 VII, nos. 5 and 26.

³ Decree withdrawing the Regulation on the requirements and approval of voting machines 1997, Government Gazette 19 October 2007, no. 203/ p. 10.

⁴ The contributions have been published in a pamphlet entitled 'Election fraud and manipulation, lectures given at the symposium held on the occasion of the 90th anniversary of the Electoral Council' (*Fraude en ongewenste beïnvloeding bij verkiezingen, lezingen uitgesproken op het symposium ter gelegenheid van het 90-jarig bestaan van de Kiesraad*), ISBN 978-90-78056-09-6.

⁵ See the National Electoral Enquiry 2006, available on www.dpes.nl.

H.R.B.M. Kummeling,
Chairman

1 Introduction

The Electoral Council Annual Report 2007 provides information about the work and organisational aspects of the Electoral Council in 2007. The major issues of 2007 are dealt with chapter by chapter. The description does not always observe a strict distinction between the Electoral Council's activities as an advisory body and its activities as a central electoral college, because both areas of focus intersect with one another.

Where certain activities in 2007 were only concluded at the beginning of 2008, a summary is given anyway, albeit in précis form. Obviously these issues will be dealt with in more detail in the Annual Report 2008.

Pursuant to section 28 of the Consultative Councils Framework Act (*Kaderwet adviescolleges*), this Electoral Council Annual Report 2007 has been presented to Ms G. ter Horst, minister of the Interior and Kingdom Relations. Given her responsibility for franchise and the elections, the annual report has also been presented to Ms A.Th.B. Bijleveld-Schouten, state secretary of the Interior and Kingdom Relations.

2 Duties and composition

Section A 1 of the Elections Act (*Kieswet*) regulates the composition of the Electoral Council. Section A 2 of the Elections Act lays down the duties and composition of the Council:

- 1 It is the duty of the Electoral Council to advise the government and both houses of the States General about matters of implementation relating to electoral law or elections.
- 2 The Electoral Council also acts as a central electoral college in the instances prescribed by law.
- 3 The Electoral Council is formed of seven members.

Apart from the statutory duties as an advisory body and central electoral college, the Electoral Council plays a role in providing information to the public and municipalities as well as political and other interested parties. This is examined in other parts of this report.

Some time ago the intention was formulated in a draft legislative proposal regarding the financing of political parties to assign to the Electoral Council the tasks of subsidising and supervising the finances of political parties. The Electoral Council issued its advice on this legislative proposal on 13 March 2006 and 13 April 2006.⁶ The legislative proposal has not yet been submitted to the House of Representatives of the States General.

Unaltered in 2007, the composition of the Electoral Council was as follows:

Prof. H.R.B.M. Kummeling, chairman;
G.J. Schutte, vice-chairman;
Ms G.M.M. Blokdijk-Hauwert, member;

⁶ At the request of the House of Representatives, the Electoral Council's advice was presented to the House of Representatives by a letter from the minister for the Interior and Kingdom Relations dated 24 January 2008 (Parliamentary documents II, 2007-2008, 31 200 VII, no. 46). The later letter from the Electoral Council, containing its response to a later version of the legislative proposal, has not been published. Based on agreements with the then minister for the Interior and Kingdom Relations, the Electoral Council refrained from actively publishing the relevant documents concerned prior to the submission of a legislative proposal.

R.T.B. Heemskerk, member;
Prof. M.H. Leyenaar, member;
W.M.B. Stoker, member;
A.J. te Veldhuis, member.

Ms J. Schipper-Spanninga occupied the position of secretary-director of the Electoral Council.

3 Organisation and working method

Organisation

The Electoral Council is supported by a secretariat led by a secretary-director. Since 1 January 2006, the Electoral Council secretariat has been an independent entity operating under the Group Staffs of the ministry of the Interior and Kingdom Relations. Only in terms of control does the secretariat fall under the ministry and, regarding the substance of the work it carries out, falls under the Electoral Council itself.

The ministry of the Interior and Kingdom Relations is to be reorganised in 2008 and subsequent years.⁷ The secretariat of the Electoral Council will not be involved in this process, because of the agreement existing between the ministry and Electoral Council that the secretariat will be placed outside the core department. At the end of 2007 preparations were made for a project which will itemise the conceivable options for this. Until the Electoral Council secretariat is placed outside the core department, it will continue to be part of the yet to be established central unit operating under the responsibility of the deputy secretary general of the ministry for Interior Affairs and Kingdom Relations.

With various vacancies filled in the secretariat the Electoral Council Consolidation project, put into operation in 2005 and 2006, was implemented during the course of 2007. The secretariat now has 12 permanent FTEs. With some regularity it also takes on temporary staff, particularly around elections.

Methods

As mentioned in the Annual Report 2006, the secretariat was expanded in 2007. This enabled it to place new accents in various areas and partly to develop new activities. The purpose of all these activities is to improve the election process. This is achieved by ensuring that implementing bodies have more information about the operation of the election process, and also because voters are better informed about their rights and obligations. The Electoral Council has also been able to consider certain aspects of the elections in greater depth, eg, because of a prior study, which has been of assistance to it in formulating advice.

4 The Electoral Council as an advisory body

Under section A 2 (1) of the Elections Act, the Electoral Council is required to advise the government and both houses of the States General about implementational matters relating to electoral law or elections. The year 2006 was mainly concerned with elections. In 2007 priority was given to issuing advice following the elections in 2006 (in addition to the provincial council elections and Senate elections, and developments regarding the Voting Machines Decisions Committee and the Advisory Committee on the Voting Process Mechanism (see the Foreword)).

In all the Electoral Council issued eight advice papers, chiefly in the second half of 2007, one of which was spontaneous. Its advice about the draft Water Boards Decree was issued to Ms J.C. Huizinga-Heringa, state secretary of Transport and Public Works. The others were issued to Ms A.Th.B. Bijleveld-Schouten, state secretary of the Interior and Kingdom

⁷ The Group Staffs (*Concernstaven*), now known as DCB (Dienst Concern en Bedrijfsvoering), is the section in which the central departments have been incorporated, together with various sections that only in terms of control fall under the ministry.

Relations. In preparation for two advice papers (about the registration of political parties and canvassing of proxy votes and declarations of support) the Electoral Council researched and compared legislation.

It issued advice about the following matters. See annex 1 for a detailed description of the import of and responses to the advice issued by it.

Advice of 26 June 2007 regarding compulsory ID in polling stations

The Electoral Council advised the state secretary of the Interior and Kingdom Relations to introduce compulsory ID at polling stations. The integrity of the electoral process is better safeguarded, in the view of the Electoral Council, if all voters are requested to show ID.

Advice of 28 June 2007 about modifying the registration of political parties

The Electoral Council advised the state secretary of the Interior and Kingdom Relations about the periods and procedure applicable to the registration of political parties. The study report appended to the advice includes an overview of case law regarding decision-making on registration applications.

Advice of 5 July 2007 about extending the Electronic Remote Voting Experiments Act (Experimentenwet Kiezen op Afstand)

The Electoral Council advised the state secretary of the Interior and Kingdom Relations to extend the Electronic Remote Voting Experiments Act, albeit with some reservations. This involves experiments with internet voting by Dutch voters abroad, as well as the use of a polling pass for voting at any polling station within a voter's own municipality inside the Netherlands.

Advice of 3 July 2007 about the draft Water Boards Decree

The Electoral Council advised the state secretary of Transport and Public Works about the draft Water Boards Decree, which included the new regulation for water board elections. The Water Boards Decree differs in a number of aspects from the Elections Decree (*Kiesbesluit*). The advice deals with a number of matters, including internet voting.

Advice of 22 October 2007 about the canvassing of proxy votes and declarations of support

The Electoral Council advised the state secretary of the Interior and Kingdom Relations about the prevention and punishment of canvassing declarations of support and proxies during elections. To substantiate its advice, it researched the historical background of the existing regulation regarding declarations of support and proxies. It also compared legislation, examining how other countries deal with the requirements for supporting political parties and voting by proxy. The results of both sets of research were appended to the advice.

Advice of 23 October 2007 about franchise for Antilleans and Arubans

The Electoral Council advised the state secretary of the Interior and Kingdom Relations about implementing franchise for residents of the Netherlands Antilles and Aruba for the European Parliament. The reason for the legislative proposal was a ruling by the Council of State stating that the distinction in franchise rules for the European Parliament between Dutch citizens abroad and those residing in the Netherlands Antilles or Aruba was contrary to the principle of equality.⁸

Advice of 19 November 2007 following three elections held in 2006 and 2007

Based on the evaluation of three elections held in 2006 and 2007, the Electoral Council advised the state secretary of the Interior and Kingdom Relations to amend a number of aspects of the Elections Act, eg, the candidate registration and nomination procedure. They examined problems encountered with its implementation.

Advice of 3 December 2007 regarding the amendment of the Elections Decree

The Electoral Council backed the proposal of the state secretary of the Interior and Kingdom Relations to amend the Elections Decree (*Kiesbesluit*). With this amendment the authority of the state secretary to establish a new regulation in order to approve voting machines was withdrawn.

In addition to the above advice papers, the Electoral Council issued two responses, to the report entitled 'Voting with Confidence' by the Advisory Committee on the Voting Process Mechanism, and to the cabinet position issued in reaction to

⁸ The legislative proposal was submitted on 20 March 2008. Parliamentary documents II, 2007-2008, 31 392, no. 1.

this.⁹

Response of 29 October 2007 to the report of the Advisory Committee on the Voting Process Mechanism

In its response the Electoral Council dealt in outline with the following three subjects: the new voting equipment proposed by the committee, the proposals regarding the various ways in which voters are able to cast their votes both in the Netherlands and abroad, and the distribution of duties and responsibilities in the electoral process.

Response of 22 January 2008 to the cabinet position on the voting process mechanism

In this response the Electoral Council focused in particular on the level of legislation for new provisions on the voting process mechanism and, in this process, the need in certain cases to have certain tasks carried out independently.

5 The Electoral Council as an independent administrative body

The Electoral Council's electoral law duties comprise activities it performs as a central electoral college for electing members of the House of Representatives, the Senate, and the European Parliament. Although in municipal and provincial council elections the Electoral Council has very few statutory duties¹⁰, it does play a role here as an information centre. The Electoral Council secretariat provides information, help and assistance to citizens, municipalities, provinces and political parties, *inter alia* in the form of circulars and letters as well as with an Elections Information Centre (in association with the Ministry of the Interior and Kingdom Relations).

On 7 March 2007 provincial council elections were held, and on 29 May 2007 members of the Senate of the States General were elected.

Until 11 December 2006 applications could be submitted to the provinces' central polling stations for the registration of appellations. On 23 January 2007 the participating political parties submitted their lists of candidates. Voting took place on 7 March 2007. The central polling stations for provincial council elections announced the results on 9 March 2007. National voter turnout was 46.4% (5,679,364 votes cast).

Just as with the municipal elections (7 March 2006) and elections to the House of Representatives (22 November 2006), an experiment was carried out in the provincial council elections with 'Voting at any polling station' (*Stemmen in een willekeurig stemlokaal*). A total of 328 municipalities took part.

On 15 March 2007 the amendment to the Provinces Act (*Provinciewet*), which reduced the number of members of the Provincial Councils, took effect.¹¹ An increase in administrative power and decisiveness and the perceived need for management in outline were the chief arguments for this reduction. When the results were established, it was obviously necessary to consider the amended number of seats. The result of this was an increase in the electoral divisor.

A number of noteworthy incidents accompanied the provincial council elections.

On the day of voting an incident occurred with the voting machines in the municipality of Emmen. Shortly after polling stations opened, 68 out of 74 of them shut their doors for some time and voting was suspended. It turned out that the voting memories had not been programmed properly, as a result of which the voting sheets did not correspond with the underlying keys of the voting machine. Until the suspension, 15 voters had cast their votes. Voting resumed between 10am and 10.30am, after the voting memories had been re-programmed. When determining the result, the central polling station concluded that renewed voting was not necessary.¹²

⁹ Parliamentary documents II, 2007-2008, 31 200 VII, nos. 5 and 26.

¹⁰ A limited statutory duty in this regard is the Electoral Council's obligation, prior to these elections, to publish the register of appellations of political groupings for the House of Representatives, cf. section G 1 (8) of the Elections Act. Under section G 4 (1) of the Elections Act, these appellations may also be used for municipal and provincial council elections.

¹¹ The Act Amending the Provinces Act (*Wet Wijziging Provinciewet*), occasioned by the reduction of the number members of provincial councils and provincial executives, Government Gazette 2005, 186.

¹² Questions were raised in Parliament, see Parliamentary documents II, 2006-2007, nos. 1011 and 1682.

In a number of cases there was also a suspicion that offences had been committed. For instance, a 17-year-old schoolboy in Heusden was suspected of having voted with his grandfather's polling pass. In Amsterdam a journalist from the daily newspaper *Metro* was suspected of having voted five times using polling passes belonging to others. And finally there was a suspicion that a journalist from *Dagblad van het Noorden* had voted using seven polling cards belonging to others.

Chapter 8 deals in greater detail with the various criminal matters. It was the above incidents and others, in which persons voted using the polling card or polling pass belonging to others, that prompted the Electoral Council to advise the state secretary of the Interior and Kingdom Relations that same year to introduce compulsory ID at polling stations. See chapter 4 and annex 1 for the advice in question.

For the Senate elections, the Electoral Council acts as a central electoral college.¹³ This means that the list of candidates is submitted to the Electoral Council and that it determines the result of the election. These elections are indirect: members of the provincial councils elect the members of the Senate.¹⁴

A register exists for appellations of political groupings for Senate elections. For the Senate elections for 2007, no new registration applications for an appellation were received. This register only has one appellation, which is the Independent Senate Group (*Onafhankelijke Senaatsfractie*). By way of comparison, the register for elections for the House of Representatives had 74 appellations in November 2006. Registered appellations for House of Representatives elections also apply to Senate elections (ie, they have what is referred to as extended effect).¹⁵

A system of voting values applies to Senate elections: each province has a certain voting value depending on its population.¹⁶ The Electoral Council announced the voting values in the Government Gazette on 8 March 2007.¹⁷

On 24 April 2007 the political parties were able to submit their lists of candidates personally to the Provincial Governor (*Commissaris van de Koningin*), who then delivered them to the chairman of the central electoral college.¹⁸ Political parties were given the opportunity, two weeks before the day candidates were listed, to have the lists assessed (provisionally) by the secretariat of the Electoral Council. This non-formal assessment reviewed the lists in the light of the statutory criteria in order where possible to avoid any form faults during the candidate nomination procedures. Almost all the parties availed themselves of this opportunity.

On 27 April 2007 the lists of candidates of various political parties that were allied to combinations of lists were submitted to the Electoral Council. At a public hearing held on 3 May 2007 the Electoral Council decided on the validity of the eleven submitted lists and the three submitted combinations of lists, and numbered the lists. The lists of the DUTCH WHISTLE BLOWERS PARTY (*NEDERLANDSE KLOKKENLUIDERS PARTIJ (NKP)*) were declared invalid because they had not been delivered personally but rather by fax and email; the other ten lists of candidates were declared valid.¹⁹

The members of the provincial councils voted simultaneously at 10.00am on 29 May 2007, partly as a result of an advice issued by the Electoral Council.²⁰ Following the vote, the provinces delivered the official reports to the Electoral Council. The Electoral Council counted the votes and calculated the result (both automatically and manually), determined the seat distribution, and assigned the seats to the candidates. Turnout for the Senate election was 100% (564 votes).

¹³ See section S 1 (1) of the Elections Act.

¹⁴ See section Q 1 (1) of the Elections Act.

¹⁵ See section Q 6 (1) of the Elections Act.

¹⁶ The voting value is calculated by dividing the population of the province by the number of provincial council members of the same province multiplied by a hundred. See also section U 2 of the Elections Act.

¹⁷ Government Gazette 8 March 2007, no. 48 / p. 9.

¹⁸ See section R 1 (1) in conjunction with section R 11 (3) of the Elections Act.

¹⁹ Visit www.kiesraad.nl for the official record of the public hearing of the central electoral college held on 3 May 2007.

²⁰ Visit www.kiesraad.nl for the Advice on the time of the Senate election of 10 November 2003.

It was at a public hearing held on 31 May 2007²¹ that the central electoral college determined the result of the election.²² The chairman of the Electoral Council handed the official record of the hearing to the chair of the Senate, Ms Y.E.M.A. Timmerman-Buck.

Of all the candidates, 26 exceeded the preference threshold²³, five of them winning a seat in the Senate purely based on preference votes. This resulted in the submission to the Senate of the Notes motion (*motie Noten*)²⁴ requesting the government to reconsider the meaning of the preference threshold in Senate elections. The motion was eventually withdrawn after prime minister Balkenende pledged a further enquiry into all aspects of the election of members of the Senate.²⁵

There was also an incident regarding the vote for provincial council members in Noord-Holland, in which one of the members cast an invalid vote. Because voting numbers for Senate elections are limited, a single invalid vote can have far-reaching consequences for the final result. At the beginning of 2008 questions of interpretation were put to the minister of the Interior and Kingdom Relations, including the one whether the conduct of certain political parties advocating how members should vote was in violation of the Constitution.²⁶ This will be dealt with in the Annual Report 2008.

On 27 September 2007, following the candidate nomination procedure, Electoral Council officials spoke with contacts of the national offices of the political parties about (*inter alia*) the possibility of nominating candidates centrally. Currently, the provincial councils play a kind of letterbox role. In its Advice of 16 November 2007, the Electoral Council advised the state secretary of the Interior and Kingdom Relations to allow a central nomination procedure for Senate elections.²⁷

If a seat in the House of Representatives, the Senate or the European Parliament becomes vacant, the duty of the chair of the Electoral Council is to nominate a candidate as member of the representative body in question. In 2007 successors were appointed for the following numbers of vacancies:

Representative body	Number of interim vacancies	Distribution among the parties
House of Representatives	17	Christian Democratic Alliance (<i>Christen Democratisch Appèl (CDA)</i>) 8 Labour Party (<i>Partij van de Arbeid (P.v.d.A.)</i>) 7 Christian Union (<i>ChristenUnie</i>) 2
Senate	3	Christian Democratic Alliance (CDA) 2 Christian Union 1

²¹ Both public hearings of the central electoral college were held in the Senate building.

²² Visit www.kiesraad.nl for the official record of the public hearing of the central electoral college held on 31 May 2007.

²³ See section U 15(2) in conjunction with section P 19 (2) of the Elections Act.

²⁴ Notes Motion (Labour Party (*PvdA*) et al. concerning the preference threshold for Senate elections (31.200, A), see www.eerstekamer.nl.

²⁵ See the letter from the state secretary of the Interior and Kingdom relations dated 14 March 2008 to the Senate about the possibilities of revising the preference threshold for Senate elections and amending the manner in which list alliances are regulated for Senate elections (Parliamentary documents I, 2007-2008, 31 200, IIA, A), *inter alia* on www.eerstekamer.nl.

²⁶ In questioning held on 26 February 2008 the minister responded by saying that such party statements are not unconstitutional.

²⁷ Visit www.kiesraad.nl for the Advice following the evaluation of elections for the House of Representatives, provincial council and Senate 2006/2007 dated 16 November 2007.

European Parliament	3	Christian Democratic Alliance (CDA) 2 Partij of the Arbeid (P.v.d.A.) 1
---------------------	---	----------------------------------------------------------------------------

In appointing successors to seats that have become vacant, the chair of the Electoral Council, in his or her capacity as chair of the central electoral college, ascertains which candidate ranks highest on the list in question drawn up after the election. This person is eligible for appointment. It is frequently the case, however, that a candidate does not wish to qualify for appointment in the event of an interim vacancy. In such cases the person in question can issue a statement saying that he or she does not wish to qualify, after which he or she is not taken into consideration in the appointment procedure.²⁸

In order to perform this task properly, regular contact is made with the secretariats of the Senate and House of Representatives. Interim appointments to vacant seats are also arranged through the secretariat of the House of Representatives.

6 Registration of an appellation

Compared with 2006 the Electoral Council (as the central electoral college) received significantly fewer registration applications in 2007. The reason for this was on the one hand the fact that appellations for provincial council elections are registered with the central electoral college of the province. On the other hand, the effect of the registration of an appellation of a political grouping for the election of members of the House of Representatives extends to Senate elections as well as provincial council elections.²⁹ Three registration applications were granted, two applications to amend a previously registered appellation were allowed, and two applications for registration were dismissed. The three new appellations were entered in the register of appellations for the House of Representatives. No political parties registered to participate in the Senate election or the election for the European Parliament. The register for Senate elections only has one appellation, ie, the Independent Senate Group (*Onafhankelijke Senaatsfractie*). This political grouping only takes part in Senate elections.

In 2007 the following appellations were entered for the first time in the election register of the House of Representatives:

- Social People's Party (*Sociale Volks Partij (SVP)*)
- Future 21 (*Toekomst 21*)
- New Netherlands (*Nieuw Nederland*)

The appellation 'Wilders Group / Freedom Party' (*Groep Wilders / Partij voor de Vrijheid*) was changed to 'Freedom Party' (*Partij voor de Vrijheid*) and the appellation 'Continuous Direct Democracy' (*Continue Directe Democratie (CDDP)*) was changed to 'Vote directly' (*Stemdirect*).

The application to register the appellation 'Our Fortune Dot NL' (*Ons Fortuin Punt NL*) was rejected because this appellation corresponds to a significant degree with another political group ('Fortuyn'), which raises the risk of confusion.³⁰ The application to register the appellation of the 'Party for International Royalism' (*Partij voor Internationaal Royalisme*) was not processed because it did not satisfy the formal requirements.

In 2007 the Electoral Council did not annul any appellations. An appellation is annulled if, among other reasons, a political grouping failed to submit a list of candidates in the most recent election.³¹ At the end of 2006 a large number of appellations were annulled for this reason in the election register of the House of Representatives.

²⁸ See sections W 1 and W 2 of the Elections Act.

²⁹ See section G 4 (1) of the Elections Act.

³⁰ See section G 1 (4) opening lines and (b) of the Elections Act.

³¹ See section G 1 (7) of the Elections Act.

In 2006 the Electoral Council ordered an enquiry into case law regarding registration applications. Following this, in 2007, the Electoral Council issued its advice to the state secretary of the Interior and Kingdom Relations.³² In this advice the Council discussed the formal aspects of the registration procedure, such as the deadline for submitting an application for registration (and the fact that the Electoral Council is not able to give the applicant a deadline for supplementing the application³³) and the deadline for receipt of the security deposit. The advice also dealt in detail with material aspects, such as the applicability of the various grounds for rejection and the question to what extent reliance may be made on trade mark and copyright law in order to protect a particular name. Finally, the Electoral Council indicated that in its opinion no substantive assessment of the aims of a political party is – or should be – allowed, in conformance with the viewpoint laid down in the Elections Act in 1989: this is the province of the courts, at the instigation of the Public Prosecutor.

In 2007, following a particular application for registration, uncertainty arose about the question as to what rules apply regarding the notation of an appellation. The Elections Act merely makes reference to 'letters' or 'signs'³⁴ but not, for example, the use of upper-case or lower-case letters, italics, bold-face and underlined letters, figures and signs. Nor have parliamentary debates shed any clarity on the matter. The Electoral Council considered it important to make the position clear on this and formulated an interpretative policy rule. Political parties that intend registering an appellation may take this policy rule into account when submitting registration applications. The policy rule was published at the beginning of 2008 in the Government Gazette³⁵ and posted on the website (see also annex 5).

In its Advice dated 3 July 2007 about the Water Boards Decree (*Waterschapsbesluit*),³⁶ the Electoral Council discussed a number of aspects of the water board elections to be held in the autumn of 2008. It advised about the requirement of legal personality for lobby groups wishing to register. Subsequently, with an amendment to the Water Boards Decree, the requirement of legal personality was also introduced for water board elections. This is possible not only for associations but also foundations in water board elections.³⁷

The Electoral Council has noted that the result of the above is that the requirements for registration are not the same for all elections. The Council is studying of the possible effects of this.

7 Court cases

In 2007 various judicial authorities delivered judgments about electoral law and voting machines. The Electoral Council observes these judgments strictly if it is not already a litigating party or is heard as an expert. A number of court cases were discussed during the 'Fraud and Manipulation' symposium held on 13 December 2007 on the occasion of the Electoral Council's 90th anniversary.

The subjects of dispute were various in 2007. Listed below are a number of judgments. For a detailed description, see the annexes. See chapter 8 for the results of criminal proceedings relating to elections.

Court cases in which the Electoral Council was a litigating party

In the election of Senate members, the central electoral college (the Electoral Council) declared that the lists of candidates of the NETHERLANDS WHISTLEBLOWERS PARTY ('NKP') were invalid because several faults had been noted. One such fault was the fact that in almost all provinces the lists of candidates had not been submitted personally, but rather by fax or

³² Advice of van 28 June 2007, available on www.kiesraad.nl under *Adviezen*. The investigation is appended to the advice.

³³ Cf. section 4:5 (1) of the General Administrative Law Act (*Algemene wet bestuursrecht*).

³⁴ See section G 1 (4) (d) of the Elections Act.

³⁵ Government Gazette 18 March 2008, no. 54 / p. 9.

³⁶ The advice of the Electoral Council was not requested with regard to the amendment to the Water Boards Act.

³⁷ See section 19 (1) of the Water Boards Act.

email. The Administrative Law Division of the Council of State declared the NKP's appeal invalid, and confirmed that lists of candidates can only be submitted in person.³⁸

On 12 June 2007 a candidate of the blank list number 14 filed an appeal with the District Court of Rotterdam against a decision by the Electoral Council not to refund a security deposit paid for participation in the House of Representatives elections in November 2006. The appellant took the view that the Electoral Council had provided insufficient information and considered a refund justified. The case was heard on 2 April 2008.

Case in which the Electoral Council acted as a witness at the request of the court

For the provincial council election in Limburg, the chief electoral colleges of Maastricht and Venlo declared the lists of candidates of the Youth Party (*Partij voor de Jongeren*) invalid for a number of reasons, including the fact that the party was unable to produce twenty valid, original supports of declaration. The Administrative Law Division of the Council of State declared the Youth Party's appeal invalid.³⁹ Aside from this case, the Public Prosecutor's Office prosecuted the chairman of the Youth Party, who was suspected of committing forgery.⁴⁰

Other cases

The Electoral Council felt it necessary to include in its annual report the cases referred to below, as they resulted in important judgments about elections.

On 20 February 2007 the Judge in Preliminary Relief Proceedings of the District Court of Leeuwarden ruled that no objection could be filed with an administrative court against voting with a polling pass. The Applicant did not agree with the decision of the municipality of Leeuwarden to consent to the instruction of the minister of Administrative Reform and Kingdom Relations to participate in the Electronic Remote Voting Experiment in the provincial council elections. The Applicant argued that use of the polling pass was fraud-sensitive and that the municipality did not fulfil its responsibility to ensure the proper production and distribution of polling passes. The Judge in Preliminary Relief proceedings ruled that a ministerial instruction to participate was not subject to appeal to an administrative court.⁴¹

In preliminary relief proceedings, the 'We don't trust voting computers' Foundation (*Stichting 'Wij vertrouwen stemcomputers niet'*) petitioned for suspension of the approval decree of 2 March 2007 by the minister of Administrative Reform and Kingdom Relations regarding three types of voting machines. The urgency of the petition lay in the fact that initial use of these voting machines was planned for the mayor referendum in Utrecht on 10 October 2007. The Judge in Preliminary Relief proceedings of the District Court of Amsterdam declared the appeal valid, and indicated that the approval of these voting machines violated section J 33 of the Elections Act and sections J 14 and J14a of the Elections Decree as well as the requirements and approval of voting machines Regulation 1997.⁴² Even before this court ruling the Utrecht municipal council had decided that voting for the mayor referendum would be by pencil and paper.

In preliminary relief proceedings, the District Court of Amsterdam issued a ruling on 14 June 2007 in response to an action brought by the Office for Election Results (*Bureau voor Verkiezingsuitslagen*) against the 'We don't trust voting computers' Foundation. At issue was the question whether the Foundations was allowed to publicise data about the Integral Voting System computer programme. The court imposed an injunction on the Foundation prohibiting it from infringing the supplier's copyrights and ordered it to remove the software and manual from its website.⁴³

³⁸ Ruling by the Administrative Law Division of the Council of State of 10 May 2007, 200703163/1, LJN BA5225.

³⁹ Ruling of 5 February 2007 by the Administrative Law Division of the Council of State, 200700780/1, LJN AZ8433.

⁴⁰ Sentencing in this case was passed on 13 February 2008 by the District Court of Maastricht.

⁴¹ Ruling of 20 February 2007 by the Judge in Preliminary Relief proceedings of the District Court of Leeuwarden, Awb 07/347, LJN: AZ9242, available on www.rechtspraak.nl.

⁴² Ruling by the Judge in Preliminary Relief proceedings of the District Court of Amsterdam dated 1 October 2007, AWB 07/2340 and AWB 07/2268, LJN BB4541.

⁴³ Ruling by the Judge in Preliminary Relief proceedings of the District Court of Amsterdam dated 14 June 2007, 368844/KG ZA 07-801, LJN BA7269.

8 Criminal offences relating to elections

A number of (possible) criminal offences were committed in connection with the provincial council elections of 7 March 2007. The focus of considerable media attention, they are also described in brief below. None of the offences affected the validity of the election results or the admission of elected members.

The Electoral Council has information of certain incidents relating to elections, often via the media, and occasionally because in such matters it is asked for an interpretation of relevant statutory regulations. In certain cases the question might arise whether a criminal offence has in fact been committed and whether the Electoral Council should report it. The Electoral Council takes the position that the primary responsibility for the decision whether to report lies with the mayor of the municipality in question. The Electoral Council only considers reporting incidents of national relevance or ones that do not occur within a specific municipality. The Electoral Council can, however, refrain from reporting an incident if the persons involved comply immediately with a warning from the Council and terminate their actions.

Voting with polling passes and polling cards belonging to other persons

In Amsterdam a journalist from the daily newspaper *Metro* claimed to have voted five times, on four occasions at the same polling station. A journalist from *Dagblad van het Noorden* in Groningen said he had voted with seven polling cards. Both journalists said that their intention was to demonstrate that it was child's play to commit voting fraud.

The mayor of the municipality of Groningen saw no reason to report the incident in question, although a private individual did do so. The Public Prosecutor's Office in Groningen refrained from prosecution because the scale of abuse of the polling cards was relatively minor. However, the mayor of the municipality of Amsterdam did report the other incident based on violation of section 128 of the Criminal Code. The Amsterdam Public Prosecutor's Office did not prosecute the offender because the only evidence available was the journalist's own statements.

In Heusden a 17-year-old schoolboy used his grandfather's polling pass to vote. The mayor of Heusden reported him for violation of section 128 of the Criminal Code: 'intentionally passing oneself off as someone else during elections'. In this case the Public Prosecutor's Office of 's-Hertogenbosch did prosecute, but the juvenile court acquitted the schoolboy for lack of evidence.

Other criminal offences and the media

On the website and in an advertisement in *de Spits*, 6pack (an MTV programme) called on readers to compile their own list of candidates, to print it out and stick it on the voting sheets of the voting machines. In this way voters could vote for themselves. After the Electoral Council contacted 6pack and stated that this conduct may be punishable, the action was terminated. The incident was not reported.

The Electoral Council was also alerted to the website of *Geenstijl*, which broadcast a short film in which a reporter told voters that voting at the polling station would not take place because of an extremely low turnout. This reporter subsequently turned voters away. At the end of the film it became clear that the action was brought to an end by (presumably) someone from the polling station. The incident was not reported.

In 2007 the investigation into a previous case – that took place in 2006 – was completed. It involved an action by Radio Caz! in which listeners who did not intend voting were exhorted in the week before the House of Representatives election of November 2006 to send their polling cards and/or polling passes to the editorial board in order to have them distributed among listeners (see also the Annual Report 2006). The Public Prosecutor's Office decided to offer one suspect a settlement of € 450 for violation of section Z 8 of the Elections Act (canvassing proxy votes). The other accused was acquitted for lack of evidence.

On 16 February 2007 the Subdistrict Court of Roermond fined a municipal council member from Weert € 1000 for canvassing votes for the municipal council elections of March 2006. The municipal council member had systematically approached persons to sign the polling card as a proxy and then to surrender it. This conduct is punishable under section Z 8 of the Elections Act. The court did not impose the Public Prosecutor's demand of a prison sentence with a two year suspension – in addition to a fine – because it considered it pointless in view of the fact that the next municipal council elections would only take place more than three years later.⁴⁴

⁴⁴ Decision of 16 February 2007 by the subdistrict division of the District Court of Roermond, 04/752219-06, LJN AZ8903, see

The Arnhem Court of Appeal sentenced the leading candidate of the Gelderland Centre Democrats (*Gelderse Centrum Democraten*) on appeal to a four month prison sentence. Together with other members of the party, the leading candidate had bribed homeless people, who had received € 10 for signing declarations of support. In sentencing the Court took particular consideration of the fact that as a (potential) leading candidate and chairman of a party the accused had taken unfair advantage of vulnerable, weak persons.⁴⁵

In April 2007 the District Court of 's-Hertogenbosch acquitted a polling station member (and election candidate for the municipal council of Landerd) of manipulation of the voting computer (section 127 of the Criminal Code). The accused was alleged to have cast several votes for himself. The District Court considered the claim unproven because too much doubt existed about the actual committal and/or feasibility of the offences with which he had been charged.⁴⁶ In January 2008 the Court of Appeal of 's-Hertogenbosch, delivering judgment in appellate proceedings, imposed a 240-hour community service order and a six-month suspended prison sentence on the polling station member for manipulating the voting machine.⁴⁷

9 Communication

The Electoral Council has the duty to act as an information centre for persons concerned during the election process. It answers the need for information about electoral law and the elections by providing information on the website and responding to queries it receives by telephone and in writing.

The information it provides is directed – frequently at the initiative of the persons concerned themselves – at the following: voters (including first-time voters), voters abroad, municipal officials, members and officials of the Senate and House of Representatives, the European Parliament, political parties, and the press. In addition, the Electoral Council regularly receives questions from the scientific community, schools and foreign delegations.

The Elections Information Centre (*Informatiepunt Verkiezingen*) is a joint initiative of the Electoral Council and the ministry of the Interior and Kingdom Relations. It falls under the responsibility of the Electoral Council. The Information Centre was set up in relation to the municipal council elections of 2006, and continued to function until after the provincial council elections of March 2007. Given the indirect nature of the Senate elections and the lower number of questions expected as a result, it was not necessary to have the Information Centre continue operations up to the Senate elections. The following table shows the number of queries received by the Elections Information Centre between 1 December 2006 and 1 April 2007, listed per election.⁴⁸

All queries	House of Representatives	Provincial Councils	Senate	European Parliament
By telephone	32	562	26	6
By email	56	331	6	2
Total	88	893	32	8

www.rechtspraak.nl.

⁴⁵ Ruling of 9 July 2007 by the Arnhem Court of Appeal, 21-005245-06, LJN: BA9085.

⁴⁶ Judgment of 19 April 2007 by the District Court of 's-Hertogenbosch, 01/849174-06, LJN BA2478.

⁴⁷ Judgment of 18 January 2008 by the 's-Hertogenbosch Court of Appeal, LJN BC2171.

⁴⁸ For more information see 'Provinciale Statenverkiezingen 7 maart 2007, statistische gegevens' (*Provincial Council elections 7 March 2007, statistical data*) available from the Electoral Council. Statistical data about the Senate elections of 29 May 2007 will appear at the beginning of 2008.

Private individuals	62	361	12	1
Municipality	10	343	2	3
Organisation	5	43	4	1
Political parties	10	79	13	3
Other*	1	67	11	0
Total	88	893	32	8

**Most questions in this category came from the press, but were intended from the press spokesperson. The questions were passed on.*

Just as in previous elections, the activities of the Elections Information Centre were evaluated after the provincial council elections.⁴⁹ The results were presented to the state secretary of the Interior and Kingdom Relations.⁵⁰ They showed that the information centre answers a need: it attracted mainly private individuals and municipalities.

Fewer questions were received for the provincial council elections than for the House of Representatives elections of 2006. Evidently, certain matters were still known both to various employees involved in the organisation of the elections and to voters.

The Government Information (Public Access) Act (*Wet Openbaarheid van Bestuur (Wob)*) regulates both the active and passive publication of documents. The Electoral Council observes the active publication obligation under section 8 of the act by placing as many relevant documents as possible on its website, as well as by publishing press releases and information material.

Private individuals and journalists regularly rely on the Government Information (Public Access) Act to request information. Where possible the Electoral Council endeavours to respond to these requests within the statutory time limit. However, given the complexity of some requests, it did not succeed in every instance. In 2007 the Electoral Council received and processed nine requests under the Government Information (Public Access) Act, including a number of extensive requests from the 'We don't trust voting computers' Foundation.

Contact with the media in the first half of 2007 was occasioned mainly by the elections. A number of incidents resulted in additional queries as well as requests to the Electoral Council to take a position (see chapter 8). In the remainder of the year, advice issued by the Electoral Council was the main reason for contact with the media, in some instances in response to press releases by the Electoral Council about its advice. Finally, the secretariat provides the media with much background information about the operation of the electoral system and the various relevant statutory regulations.

The Electoral Council maintains various contacts with organisations that have executive duties as regards elections, or which are linked to elections in some other way. The Electoral Council also has the specific aim of finding out what experience the implementers and other persons who are actively involved have with the various regulations and relevant legislation. The Electoral Council then uses this information to make improvements in its own work and in preparing the advice it issues.

In 2007 the Electoral Council secretariat organised two meetings for officials of the main polling stations. Subjects discussed

⁴⁹ The evaluation report of the Elections Information Centre on the Provincial Council Elections is available from the Electoral Council.

⁵⁰ See the presentation letter from the Electoral Council to the state secretary of the Interior and Kingdom Relations dated 23 August 2007, reference 2007-0000275292.

were the evaluation of the House of Representatives election, the reports published by the Voting Machines Decisions Committee and the Advisory Committee on the Voting Process Mechanism⁵¹ and other electoral law developments.

Another meeting was organised with the representatives of the political parties' national offices. This meeting discussed the candidacy procedure for provincial council and Senate elections, including matters such as the possibility of prior submission of the lists of candidates and provision of information by the Electoral Council.

On 13 December 2007 the Electoral Council organised a symposium on the occasion of its 90th anniversary.⁵² The symposium was entitled 'Fraud and manipulation in elections'. This topic was discussed from historic, contemporary and international perspectives. Speakers at the symposium were S. Younger (chair of the British Electoral Council), S. Lukowski (Public Prosecutor) and R. de Jong (an Electoral Council researcher). The symposium was opened by the chair of the Electoral Council and the closing speech was given by Ms A.Th.B. Bijleveld-Schouten, state secretary of the Interior and Kingdom Relations. Following three introductory addresses, a number of statements (some of them challenging) were debated by both panel and audience. Ms Jacobine Geel chaired the symposium, which was attended by almost 100 persons. Finally, a book was published on the event, which was sent to all invitees at the beginning of 2008.

The Electoral Council would like to supply more and better information about elections, given the fact that this need is demonstrated over and over again. For this reason, various initiatives were developed in 2007.

The first one we would like to mention is the historic election results project. Its aim is to provide clarity in a single internet database about House of Representatives election results starting from the year 1848. The project is being carried out in association with the Strategic Knowledge Development (*Strategische Kennisontwikkeling*) division of the ministry of the Interior and Kingdom Relations and is being supervised by an external committee. In 2007 missing data was researched in (municipal) archives. The expectation is that election results starting from the year 1848 will be available on the Electoral Council's website in the autumn of 2008. In 2007 work commenced on developing a new website for the Electoral Council and its construction was contracted out. It is expected that the new website will be completed in the spring of 2008. Its content will then be largely brought up to date during the course of 2008.

Work was also done setting up an Electoral Council series. This will include publications aiming at promoting knowledge and the debate about electoral law, as well as advice from the Electoral Council and products from the Council's research programme. The first publication in the series is an anthology and was issued on the occasion of the Electoral Council's symposium celebrating its 90th anniversary.

10 International developments

The Electoral Council keeps close track of international developments in elections and electoral law. Many issues associated with elections have relevance both inside and outside the Netherlands. Developments in knowledge about solutions chosen in the Netherlands and other countries can be of assistance in finding better solutions to these issues. The Electoral Council therefore considers it important to cooperate with requests for information about the Dutch electoral system and Dutch elections from other countries (and delegations from them). Where necessary, members and/or employees of the Electoral Council also visit countries abroad.

An observer's mission from the Organisation for Security and Cooperation in Europe (OSCE) was present at the House of Representatives election of November 2006. At the time the members of the mission spoke with the Electoral Council and others. Appearing at the beginning of March 2007, the OSCE's report contained a number of observations and recommendations about the electoral process and related legislation. The Electoral Council drew on parts of the report in its response to the report 'Voting with confidence' by the Advisory Committee on the Voting Process Mechanism.

⁵¹ The report 'Voting machines, a neglected dossier' by the Voting Machines Decisions Committee, which appeared in April 2007, and the report 'Voting with confidence' by the Advisory Committee on the Voting Process Mechanism, which appeared in September 2007. Both reports can be found on www.kiesraad.nl.

⁵² Royal decree of 12 December 1917 implementing section 32 of the Elections Act Kieswet (Bulletin of Acts, Orders and Decrees, 691).

In November 2007 GRECO (Group of States against Corruption), a creation of the Council of Europe, visited the Netherlands, including the Electoral Council. They spoke about party financing and the legislative proposal on the financing of political parties. The GRECO report is expected to appear in mid 2008.

In 2007 the Electoral Council attended a meeting of the OSCE in Poland, which discussed the supervision of elections and electronic voting. They also took part in a meeting of the Group of Electoral Management Bodies of the Venice Commission of the Council of Europe in Strasbourg.

During a working visit to the United Kingdom the Electoral Council examined the experiments with electronic voting in local elections. It also took part in a congress about electronic voting held in Bochum, Germany.

The Electoral Council received various foreign delegations from a number of countries, including Finland and the United Kingdom.

11 Finances

The table below shows the operational budget of the Electoral Council and expenses incurred in 2007. The budget of the Electoral Council amounted to € 1,331,000.

Budget and expenses of the Electoral Council in (amounts multiplied by 1,000 euro)

	Operational budget:	Expenses incurred:
Staff (salaries of staff, incl. temporary personnel)	758	671
Material	573	444
Total:	1,331	1,115

The Electoral Council did not utilise its entire budget in 2007. The main reason was that in 2007 it was not operating at its full staff complement.

The above figures do not include the income received by the Electoral Council in the form of security deposits for the registration of appellations and candidate nominations. These security deposits are entered in a separate account, as they accrue to the State if they are not refunded to those who paid them.

The chair of the Electoral Council receives payment at the level of remuneration of 0.3 FTE in the 18 BBRA scale. Members of the Electoral Council receive an attendance fee of € 235 per meeting.

There is no one employed by the Electoral Council secretariat who falls under the Executives' Pay Financed from Public Funds (Disclosure) Act (*Wet Openbaarmaking uit Publieke middelen gefinancierde Topinkomens*).

Other data regarding finances are reported through the normal budget accounting cycle of the ministry of the Interior and Kingdom Relations (Chapter VII of the State Budget). Amounts for the Electoral Council are stated in article 1.3 of this budget.

Annexes

1 Overview of the advice issued in 2007

Advice about compulsory ID in polling stations

On 22 June 2007, in response to a request for advice from the state secretary of the Interior and Kingdom Relations, the Electoral Council advised that compulsory ID should be introduced for voting. The Electoral Council feels that this could help safeguard the integrity of the voting process. Currently, voters only have to prove their identity if they are specifically asked to do so. There is no longer any objection to the introduction of compulsory ID, now that a general obligation to provide identification applies in the Netherlands. In its advice the Electoral College also linked the issue with another vulnerable aspect of the present system, ie, extensive opportunities that exist for voting by proxy.

Advice about modifying the registration of political parties

On 28 June 2007 the Electoral Council issued unsolicited advice to the secretary of the Interior and Kingdom Relations on modifications to the registration of political parties. Having discovered a number of problems with processing registration applications, the Electoral Council investigated the matter. This investigation led to its advice to the state secretary in which it proposed technical improvements. Under current legislation, the Electoral Council (the central electoral college) is not authorised to assess the objectives of a political party as to their substance. Following the public debate about the Party for the Love of Others, Freedom and Diversity (*Partij voor Naastenliefde, Vrijheid en Diversiteit*), the Electoral Council closely examined the background of this statutory provision. The Council continues to support the principle that it is up to the voter to assess the substance of political party objectives. In exceptional cases only a court of law is allowed to prohibit a political party. Aside from this, the Electoral Council advised that it be laid down, more explicitly than is presently the case, that registration applications can only be processed once the requisite security deposit is paid and evidence of this is submitted upon submission of the application.

Advice about extending the Electronic Remote Voting Experiments Act (Experimentenwet Kiezen op Afstand)

On 3 July 2007, in response to a request for advice from the state secretary of the Interior and Kingdom Relations, the Electoral Council advised extending the Electronic Remote Voting Experiment. The state secretary wished to extend the facilities of two previous experiments – voting by internet for Dutch voters abroad and voting at any polling station within a voter's own municipality – to impending elections as well, in anticipation of a definitive regulation in an amended Elections Act. The Electoral Council consented to this, but requested attention to various matters including a proper evaluation of the experiments before their being passed into law.

Advice about the draft Water Boards Decree

A new system of elections is to be introduced for the water boards. Based on this system it is intended that in the autumn of 2008 elections for all water boards take place simultaneously. The draft Water Boards Decree takes much from the Elections Act, but not everything. One example of a difference is that votes are not cast in person at a polling station, but rather by letter and over the internet. The state secretary of Transport and Public Works requested the Electoral Council for its advice about this new regulation. In its advice of 3 July 2007 the Electoral Council dealt in detail with the use of internet as a voting tool for water board elections, pointed out the importance of a sound approval procedure for the internet voting service, and requested attention for the protection of internet voting secrecy.

Advice about franchise for Antilleans and Arubans

On 28 September 2007 the Electoral Council advised the state secretary of the Interior and Kingdom Relations to grant franchise to the inhabitants of the Netherlands Antilles and Aruba for the European Parliament. This advice was in line with the legislative proposal to amend the Elections Act. This legislative proposal was occasioned by a ruling of the Council of State declaring that the distinction in franchise rules for the European Parliament between Dutch citizens abroad and those residing in the Netherlands Antilles or Aruba was contrary to the principal of equality. The Electoral Council endorses the options chosen in the legislative proposal, but in its advice requested attention for a number of implementational aspects.

Advice about canvassing proxy votes and declarations of support

On 15 October 2007 the Electoral Council advised the state secretary of the Interior and Kingdom Relations about the prevention and punishment of canvassing proxy votes and declarations of support for elections. The Electoral Council had been approached for advice following incidents during the elections of 2006. According to the Electoral Council, there were no signs that such practices were widespread. For this reason it felt that a reserved approach was appropriate in taking any measures. It did, however, advise that anyone issuing a private proxy should be required to provide ID. It also considered it

desirable that the number of proxy votes cast should be monitored for every election. The Electoral Council felt that greater use could be made of the existing investigation and prosecution possibilities, eg, with the establishment of prosecution guidelines. Finally, the Electoral Council considered it desirable that the current electoral law regulation for disenfranchisement should be re-examined.

Response by the Electoral Council to the report of the Advisory Committee on the Voting Process Mechanism (Korthals Altes committee)

On 15 October 2007, following the report 'Voting with confidence' issued by the Korthals Altes committee, the Electoral Council issued an initial response to the state secretary of the Interior and Kingdom Relations. The Council dealt in outline with the following three subjects: the new voting equipment proposed by the committee, the proposals regarding the various ways in which voters are able to cast their votes both in the Netherlands and abroad, and the distribution of duties and responsibilities in the electoral process. The Electoral Council requested attention *inter alia* for a number of implementational aspects of the proposals and discussed the final phase of electoral process, ie, determining the result, which received relatively minor treatment in the report. It also felt that the report made it obligatory to give further consideration to the question which duties should be placed under ministerial responsibility and which ones should be carried out independently.

Advice following the elections held in 2006 and 2007

The Electoral Council evaluated the House of Representatives elections of November 2006, the Provincial Council elections of March 2007 and the Senate elections of May 2007. In its evaluation, in addition to its own observations, it explicitly included comments and signals from voters, political parties and representatives of the principal polling stations. On 16 November 2007, based on these, the Electoral Council advised the state secretary of the Interior and Kingdom Relations to amend parts of the Elections Act.

The advice dealt *inter alia* with the following matters: the statement of candidates' names on the lists of candidates, multiple candidate nominations, groups of lists within a single province, the submission of candidates' lists, the investigation of the candidates' lists, voting and the determination of results, change of an appellation or proxy of a political grouping, and the conduct of polling station members.

2 Overview of court cases in which the Electoral Council was involved

A. Cases in which the Electoral Council was a party

Party and date	Section (Elections Act)	Description and ruling
1. Netherlands Whistle Blowers Party (Nederlandse Klokkenluiders Partij (NKP)) / Electoral Council 10-05-2007	R 1, R 2, R 8, S 1, S 2, S 3 en S 6	Appeal against invalidity declaration regarding the list of candidates for the Senate elections. Several reversible (and irreversible) faults observed. Not submitting lists of candidates in person is an irreversible fault. Appeal declared invalid.
2. Verlinden/Electoral Council	H 12	Appeal against dismissal of request for refund of security sum paid for candidate nomination. Reasons for giving refunds are listed exhaustively in the act and reasons put forward cannot be included among them. A ruling on this matter is expected in May 2008.

B. Cases in which the Electoral Council acted as a witness

Party and date	Section (Elections Act)	Description and opinion of the Electoral Council	Ruling
Youth Party (<i>Partij voor de Jongeren</i>) / Main polling station, Venlo	H 4	Insufficient declarations of support submitted for the nomination of candidates for the Provincial Council elections. Fault not corrected in the proper manner and the list of candidates was declared invalid. The Electoral Council took the view that no reason was put forward that would justify the order being voided.	Main polling station correctly observed that the fault was not corrected in the proper manner and correctly declared the list invalid. Appeal declared invalid.
Youth Party (<i>Partij voor de Jongeren</i>) / Main polling station, Maastricht	H 4	Ditto	Ditto

C. Rulings in criminal proceedings

Court and date	Section	Description and ruling
-----------------------	----------------	-------------------------------

District Court of 's-Hertogenbosch 10-04-2007 (Landerd)	Section 127 of the Criminal Code	The accused, polling station member and candidate for the municipal council elections of 2006 in Zeeland (municipality of Landerd), was suspected of manipulating the voting computer as an abnormally high number of votes were cast for him. The charge was that he had voted for himself several times. The court acquitted him because there was too much doubt about the actual committal/feasibility of the act with which he was charged.
Court of Appeal of 's-Hertogenbosch 18-01-2008	Section 127 of the Criminal Code	Appellate proceedings in the above matter. Partly on the basis of witness statements the court imposed a 240-hour community service order and a six-month suspended prison sentence on the accused for manipulating the voting machine. On several occasions the accused did not make the voting machine available for use, telling voters they had already voted. The accused then made it available for use and voted for himself.
Court of Appeal of s-Hertogenbosch 10-12-2007		A schoolboy was suspected of having used his grandfather's polling pass to vote in the Provincial Council elections. The judge in juvenile proceedings acquitted the accused for lack of evidence (there was only the statement of the accused himself).

D. Rulings in other matters

Party and date	Section	Description and ruling
Political Reformed Party (<i>Staatkundig Gereformeerde Partij (SGP)</i>) / the minister of the Interior and Kingdom Relations 05-12-2007	Section 2 of the Subsidising of Political Parties Act (<i>Wet subsidiering politieke partijen (Wsp)</i>)	The Administrative Law Division of the Council of State ruled that the minister had wrongly subsidised the SGP. The party did not meet the formal requirements for the granting of subsidy. Consideration of the substance of the matter was not allowed, and the minister could not reject the application based on a ruling by a court declaring enforceability.

Political Reformed Party (<i>Staatkundig Gereformeerde Partij (SGP)</i>) / the Government of the Netherlands 20-12-2007	Section 2 of the Wspp	In line with the civil sector of the District Court in 2006, the Court of Appeal ruled that the government should take measures resulting in the SGP granting passive franchise to women. The court could not itself, however, impose any order. Unlike the District Court, the Court of Appeal ruled that it could not deliver a ruling about the subsidy halt requested by Clara Wichmann because this was a matter for an administrative court.
------------------------------------------------------------------------------------------------------------------------------	-----------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

3 Complaints Handling Scheme of the Electoral Council

Complaints Handling Scheme of the Electoral Council

The Electoral Council,

Having regard to chapter 9 of the General Administrative Law Act (*Algemene wet bestuursrecht (Awb)*);

Decides:

Article 1 Definitions

The following definitions apply in these regulations:

- a. Electoral Council: the administrative body referred to in sections A 1 and A 2 of the Elections Act;
- b. employee of the Electoral Council: all employees accountable to the secretary-director of the Electoral Council;
- c. complaint: a written or oral expression of dissatisfaction about the manner in which the Electoral Council (or employee of the Electoral Council) has behaved in a certain matter;
- d. person concerned: the person to whose actions or omissions the complaint relates;
- e. complainant: a person who submits a complaint to the Electoral Council about the behaviour of the Electoral Council (or employee of the Electoral Council).

Article 2 Right to complain

Anyone has the right to submit a complaint to the Electoral Council about the manner in which the Electoral Council has behaved towards him in a certain matter.

The behaviour of an employee of the Electoral Council is considered the behaviour of the Electoral Council, if such behaviour can be attributed to the Electoral Council.

Complaints may be submitted either orally or in writing.

The Electoral Council ensures that both oral and written complaints about its behaviour will be dealt with properly.

If a written complaint relates to behaviour towards the complainant and satisfies the requirements of article 4 paragraph 1, then articles 5 to 13 are applicable.

Article 3 Amicable settlement

The Electoral Council may at any stage of the complaints handling procedure ascertain whether the complainant may be satisfied with an informal settlement of his complaint.

Once the Electoral Council has responded to the complaint to the complainant's satisfaction, the obligation to apply these complaints handling scheme any further lapses. In such a case the complainant will receive written notification that the

procedure is complete.

Article 4 Written complaints

- 1 A written complaint must be signed and include at least the following:
 - the name and address of the person submitting the complaint;
 - the date;
 - a description of the behaviour against which the complaint is directed and the time of the behaviour in question.
- 2 Written complaints that are not dated are considered to be dated on the date of receipt.

Article 5 Assistance to complainant

The complainant and the person concerned may engage the assistance or be represented by an authorised representative. The Electoral Council may require an authorised representative to produce written authorisation.

Article 6 Acknowledgement of receipt

The Electoral Council acknowledges the receipt of written complainants, stating the date of receipt of the written complaint and by sending to the complainant a copy of these regulations.

The Electoral Council forwards a written complaint for handling to the authority manifestly authorised to deal with it, doing so immediately if possible and, at the same time, informing the complainant of this.

The Electoral Council returns to the complainant a written complaint that is not intended for it and that is not forwarded, doing so as soon as possible.

The person concerned receives a copy of the complaint, acknowledgement of receipt and the corresponding documents.

The Electoral Council may decide not to handle a complaint that fails to satisfy the requirements of article 4 (1), provided the person who submitted it is given the opportunity to supplement the complaint within a period of time determined by the Electoral Council.

The Electoral Council registers and administrates written complaints received by it and monitors their handling in a proper manner.

Article 7 No obligation to handle complaints

- 1 The Electoral Council is not obliged to handle a complaint if it relates to behaviour:
 - a. about which a previous complaint has been submitted that has been settled with due observance of this complaints handling scheme;
 - b. that occurred more than a year prior to submission of the complaint;
 - c. against which the complainant could have submitted an objection;
 - d. against which the complainant may file an appeal, unless the behaviour consisted in the failure to take a decision in a timely manner, or an appeal could have been filed;
 - e. which by instituting a procedure is or was subject to the judgment of another judicial authority or an administrative court, or,
 - f. for as long as in this connection an investigation or prosecution is being conducted under the orders of the public prosecutor, or if the behaviour forms part of the investigation or prosecution of a criminal offence and, in connection with this offence, an investigation or prosecution is being conducted under the orders of the public prosecutor.
- 2 The Electoral Council is not obliged to handle a complaint if the interest of the complainant or the significance of the behaviour is evidently insufficient.
- 3 The Electoral Council informs the complainant in writing as soon as possible if a complaint is not accepted for handling, doing so in any case within no more than four weeks after receiving the written complaint. This written notification states the reason(s) why the complaint is not accepted for handling.

Article 8 Opportunity to be heard

The Electoral Council gives the complainant and the person to whose behaviour the complaint refers the opportunity to be heard.

The Electoral Council may refrain from hearing the complainant if the complaint is evidently invalid or if the complainant declares he does not wish to avail himself of the right to be heard.

The Electoral Council may refrain from hearing the person concerned if the complaint cannot be accepted for handling, if the complaint is evidently invalid, or if the person concerned declares he does not wish to avail himself of the right to be

heard.

A report is drawn up of any such hearing.

Article 9 Handling and decision

The Electoral Council handles complaints within six weeks or – if the provision of article 12 paragraph 1 is applied – within ten weeks after the written complaint is received.

The Electoral Council may adjourn handling for a maximum of four weeks. The complainant and the person concerned to whose behaviour the complaint relates is notified in writing of such adjournment, with reference to the reason for adjournment and the new period within which the complaint can be expected to be handled.

If a complaint relates to a specific member of the Electoral Council, this member does not take part in the decision making about the complaint or the discussions and deliberations on it.

Article 10 Completion

The Electoral Council notifies the complainant and the person concerned in writing, with reasons, of the findings of the investigation into the complaint as well as of any conclusions it attaches to them.

If a complaint that is declared valid relates to a decision not having been taken (or not having been taken in a timely manner) or some other omission to act, the Electoral Council notifies the complainant of the period of time within which the decision will be taken or the omitted act will be carried out, if this is not contrary to the Elections Act and the system underlying it.

In the notification referred to in paragraph one, the complainant is informed that he has the opportunity to submit a complaint to the National Ombudsman within a year after the date on which handling of the complaint is completed.

Article 11 Registration and publication

The Electoral Council ensures that complaints submitted to it in writing are registered. Registered complaints are published in terms of number and type in the annual report of the Electoral Council.

Article 12 Complaints advisory committee

In special instances the Electoral Council may request an independent complaints advisory for advice about a complaint received. In that case articles 12 and 13 of these regulations are applicable.

The Electoral Council appoints the chairman, the secretary and the other members of the complaints advisory committee, as well as their deputies.

The person concerned does not sit on the complaints advisory committee.

The Electoral Council may only give the complaints advisory committee general instructions.

Article 13 Duties of the complaints advisory committee

As soon as the Electoral Council decides to call upon the complaints advisory committee, the management informs the complainant and the person concerned that the complaints advisory committee has been charged with the task of issuing its advice about the complaint.

Hearings are held by the complaints advisory committee.

The complaints advisory committee may order the chairman or a member to be heard.

The complaints advisory committee decides on the application of article 8 (2).

The complaints advisory committee sends the Electoral Council a report of its findings, accompanied by its advice and any recommendations.

The report includes the report of the hearing.

Article 14 Citation title, publication and entry into force

This set of regulations may be cited as the Electoral Council Complaints Handling Scheme.

It is published in the Government Gazette and can also be consulted on www.kiesraad.nl.

The Electoral Council Complaints Handling Scheme comes into force on the second day following the date of the Government Gazette in which it is published.

Adopted in The Hague on 20 February 2008

H.R.B.M. Kummeling, chairman
J. Schipper-Spanninga, secretary-director

Explanatory Notes

General

Chapter 9 of the General Administrative Law Act ('Awb') contains a regulation for an internal complaints handling scheme. Under section 9:1 anyone has the right to submit a complaint about the manner in which an administrative body has conducted itself towards him or someone else.

This regulation may be considered a basic regulation. Chapter 9 contains a number of minimum requirements for the internal handling of complaints by administrative bodies. Although these minimum requirements are inviolable, other requirements may be added to them. For this reason many administrative bodies draw up their own regulations laying down an internal procedure for handling complaints. This particular regulation constitutes a complaints handling scheme for the Electoral Council.

Article by article

Article 1 Definitions

This article lays down the definitions of the terms used in the complaints handling scheme.

Article 1 (a) contains a description of the Electoral Council. Pursuant to article A 2 of the Elections Act the Electoral Council has a dual function. On the one hand the Council acts a central electoral college for the elections of members of the Senate or House of Representatives and the European Parliament. On the other it has an advisory role in respect of the government and parliament. Its advisory duties are limited to implementational matters relating to electoral law or the elections.

The Electoral Council employees referred to in article 1 (b) also include employees seconded to it or ones from temporary employment agencies.

A definition of the term complaint (article 1 (c)) is lacking in the Awb. The government did not feel this was desirable because chapter 9 makes clear in what instances it applies anyway. Article 9 (1) (1) of the Awb refers to the behaviour of an administrative body towards someone in a certain matter. This wording does not exclude the possibility that complaints may also relate to the omission to perform an act. This is often the case in practice: one reason for many complaints is the failure of administrative bodies to make a decision in a timely manner.

As stated, a complaint must relate to particular behaviour in a certain matter. This means that general complaints about policy or the carrying out of policy usually fall outside the scope of the proposed complaints handling scheme. The fact is that general complaints about policy (or policy decisions) are not about particular matters, which cannot therefore be deemed to involve behaviour towards a person. Behaviour about which complaints may be submitted includes acts carried out as well as decisions and legal acts under private law.

If the behaviour in question involves making a decision, objection and appeal procedures obviously take preference. Anything that is not an objection may be considered a complaint, the exact assessment of which in any particular instance is left to the Electoral Council. In specific instances this can mean that the Electoral Council has to contact the person concerned in order to ascertain his intentions. In any case it is not so that a complaint may only be handled as such if the person concerned refers to it as a complaint. Nor is it a requirement upon submission of a letter that it should be given the designation complaint or a similar term. The opposite also occurs: a letter calling itself a complaint may very well turn out to be a letter of objection.

The Electoral Council is an independent administrative body as well as an advisory body. Although appointed by the minister of the Interior and Kingdom Relations, the employees of the Electoral Council work at the secretariat of the Electoral council and are responsible only to the Electoral Council.

Article 2 Right to complain

The term 'anyone' includes natural persons, artificial legal persons and other entities such as works councils. Complaints may be submitted either orally or in writing. No requirements of form apply to oral complaints. Oral complaints may be submitted either in person or by telephone. The Electoral Council has to ensure that oral complaints are handled with due care.

Handling complaints with care is a requirement pursuant to the general principles of good government. A complaints handling scheme also has an important learning effect in improving the quality of government service. This is also the chief reason why complaints should be registered and that the complaints handling scheme be evaluated from time to time.

Article 3 Amicable settlement

If a complaint satisfies the requirements of article 4 of this complaints handling scheme, then the complaint must be handled in accordance with the rules of section 9.1.2 of the Awb. This does not mean that every complaint should subsequently be settled in writing. Under section 9.5 of the Awb and article 3 of this complaints handling scheme the handling of a complaint may be halted once the Electoral Council responds to the complaint to the satisfaction of the complainant. This could be the case if a solution is found that redresses the situation in question. Another possibility is that an explanation is given by telephone that the complainant feels is satisfactory.

Halting the handling of a complaint is possible at any moment. This means that if immediately after a complaint is received the Electoral Council responds to it to the satisfaction of the complainant, all further obligations such as sending an acknowledgement of receipt and hearing the complainant no longer apply. If the matter is resolved at a later stage of the procedure, it can mean that a hearing is no longer required.

It is up to the complainant himself to determine whether the complaint has been handled satisfactorily. In any case it is wise to put down in writing and notify the complainant that the Electoral Council understands that in the opinion of the complainant the complaint has been handled satisfactorily.

Article 4 Written complaint

The Awb does not require that a complainant indicates the reasons for his complaint. A description of the behaviour to which the complaint relates is generally sufficient. Nor is a complainant required to state the name of the person whose behaviour is at issue.

Article 6 Acknowledgement of receipt

This article is a reiteration of the provisions of sections 9:6, 9:9 and 9:12a of the Awb. The intention of section 9:12a Awb is to strengthen the learning effect of the complaints handling scheme by registering and publishing the complaints submitted. This is also beneficial to the transparency and control of administrative bodies. The registration obligation also applies to written complaints that do not satisfy the admissibility requirements of section 9:4 of the Awb and section 4 of this complaints handling scheme. Even written complaints that are handled rapidly and to the satisfaction of the complainant must be registered.

Article 7 No obligation to handle complaints

The provisions of this article are laid down optionally and are taken directly from section 9:8 of the Awb. In the instances referred to, the Electoral Council is authorised though not obliged to handle the complaint.

In order to prevent the complaints handling scheme being used by persons who fail to observe the period laid down for submitting an objection or appeal, article 7 (1) under c and d provides that the Electoral Council is not obliged to handle a complaint if it relates to behaviour against which an objection or appeal could have been made or submitted.

The complainant must be notified as soon as possible of the reasons for his complaint not being handled. This must be done within a maximum of four weeks. Since this involves a decision, section 3:47 (1) of the Awb prescribes that in issuing such notification the reasons for it must also be given. No objection or appeal is possible against a decision not to handle a complaint. In this regard see section 9:3 of the Awb.

Article 8 Opportunity to be heard

Hearings may be conducted in person or by telephone. However, it is up to the complainant to consent to being heard over the telephone. The authority to hear a complainant may be mandated to the secretary-director of the Electoral Council. This authority (as well as the authority to handle complaints) may be sub-mandated to an employee of the Electoral Council.

Article 9 Handling and decision

This provision does not prevent this authority being mandated to an employee of the Electoral Council, in accordance with the Electoral Council Mandate Order.

Article 10 Completion

The decision of the Electoral Council about complaints submitted is not a decision within the meaning of the Awb and is therefore not subject to objection or appeal.

Under section 9:12 of the Awb an administrative body must notify a complainant in writing, with reasons, of the findings of its investigation, its decision on it and any conclusions it draws from it. It is not always the case, not even if a complaint is declared valid, that such conclusions mean that measures must be taken. The completion letter may be brief and concise if a complaint is handled satisfactorily. The explanatory memorandum to the legislative proposal shows that the legislature prefers that the completion letter should include a clear decision (ie, valid or invalid). If a complaint is declared valid, the completion letter may set forth measures that will be taken based on the nature of the behaviour. This is what is meant by the term 'conclusions'.

Article 11 Registration and publication

See in this connection the explanatory notes to article 6 of this complaints handling scheme.

Article 12 Complaints advisory committee

Section 9:14 of the Awb prescribes that an administrative body may call in a person (eg, a confidant) or committee (composed either of internal staff or, entirely or in part, external persons) for handling complaints. The Electoral Council may decide to do this if, for example, the written complaint relates to behaviour of one or more members of the Electoral Council. The seriousness or nature of the behaviour in question may also be a reason for the Electoral Council to engage a complaints advisory committee.

Article 13 Duties of the complaints advisory committee

The duty of the complaints advisory body is to hear the complainant and the person concerned and to draw up a report of findings, advice and where relevant recommendations. This report is *not* a final decision: it is up to the Electoral Council to deliver a final decision on the complaint based on the findings and advice. One reason for this is the internal nature of the complaints procedure: it is the body in question that pronounces a final decision on the complaint.

Even if a complaints advisory body is called in to handle a complaint, rapid and informal completion remains a possibility as long as the complainant is satisfied about the completion.

Article 14 Citation title, publication and entry into force

This set of regulations may be cited as the Electoral Council Complaints Handling Scheme. The Electoral Council Complaints Handling Scheme comes into force on the second day following the date of the Government Gazette in which it is published. It can also be consulted on www.kiesraad.nl.

4 Electoral Council Mandate Decision

The Electoral Council,

Having regard to sections 10:3 (1) and 10:11 (1) of the General Administrative Law Act (*Algemene wet bestuursrecht (Awb)*);

Decides:

Article 1

1. The chairman and secretary-director of the Electoral Council are jointly mandated to sign advice papers and decisions, if no statutory provision provides that all members present of the Electoral Council are required to sign the advice paper or decision in question.
2. The decision referred to in paragraph one states that it is signed in accordance with the decision taken by the Electoral Council and, if possible, refers to the meeting at which the Electoral Council adopted the decision.
3. Paragraphs one and two apply *mutatis mutandis* to decisions of the Electoral Council in its capacity as central electoral college for the election of members of the House of Representatives, central electoral college for the election of members of the Senate, or central electoral college for the election of members of the European Parliament.

Article 2

1. The chairman of the Electoral Council is mandated on behalf of the Electoral Council to decide and to sign documents with regard to:
 - a. refraining, with application of section 4:5 of the General Administrative Law Act, from handling applications submitted to the Electoral Council, the central electoral college for the election of members of the House of Representatives, the central electoral college for the election of members of the Senate, or the central electoral college for the election of members of the European Parliament;
 - b. decisions, including notices of meetings, pursuant to the Government Information (Public Access) Act;
 - c. issuing powers of attorney to represent the Electoral Council at an administrative court.
2. The chairman of the Electoral Council is authorised on behalf of the Electoral Council to decide and to sign documents with regard to:
 - a. filing an appeal against a ruling in administrative law proceedings in which the Electoral Council is a party;
 - b. conducting administrative law proceedings in which the Electoral Council is a party, such as submitting defences and other written documents;
 - c. responding to letters addressed to the Electoral Council.

Article 3

1. The secretary-director of the Electoral Council is mandated on behalf of the Electoral Council to decide and to sign documents with regard to notices of meetings as meant in section 6 (1) of the Government Information (Public Access) Act.
2. The secretary-director of the Electoral Council is authorised on behalf of the Electoral Council to decide and to sign documents with regard to:
 - a. conducting administrative law proceedings in which the Electoral Council is a party, such as submitting defences and other written documents;
 - b. responding to letters addressed to the Electoral Council from private individuals, political parties, municipalities and other bodies.

Article 4

1. The secretary-director of the Electoral Council is responsible for registering complaints and coordinating their handling.
2. The secretary-director of the Electoral Council is mandated on behalf of the Electoral Council to handle the complaints referred to in paragraph 1, if by their nature or content they are not of such importance that they should be handled by the Electoral Council itself. The Electoral Council is notified of any complaint submitted.

Article 5

This decision takes effect on the second day after the date of the Government Gazette in which it is published.

In accordance with the decision of the Electoral Council, adopted at its meeting of 7 November 2006, most recently amended by decision of the Electoral Council, adopted at its meeting of 20 February 2008.

H.R.B.M. Kummeling, chairman.
J. Schipper-Spanninga, secretary-director

Explanatory notes

At its meeting held on 7 November 2006, the Electoral Council adopted the Electoral Council Mandate Decision (Government Gazette, 16 November 2006, no. 224, p. 39). For the sake of efficiency, mandates in a number of matters were issued to the chairman and the secretary-director of the Electoral Council.

If a mandate is issued, the authority to take a decision remains with the administrative body in question, the Electoral Council. A mandate is exercised on behalf of the administrative body, and the administrative body is authorised to issue instructions for exercising the mandate. Thus the secretary-director is obliged where necessary to consult with the chairman of the Electoral Council about matters affecting the interests of the Electoral Council as such.

In article 1 of the Electoral Council Mandate Decision a mandate to sign is issued to the chairman and secretary-director jointly, such signature giving expression to a decision taken by the body of the Electoral Council. Article 2 provides for a completion mandate for the chairman. This involves *inter alia* decisions pursuant to the General Administrative Law Act. In articles 3 and 4 a mandate is issued to the secretary-director, *inter alia* for registering and handling complaints. As it happens, the chairman is also mandated for all matters for which the secretary-director is mandated.

With the amendment to the Electoral Council Mandate Decision, adopted at the meeting of the Electoral Council held on 20 February 2008, the term secretary was replaced by secretary-director, thus formalising standard practice. With the addition of article 4 and the withdrawal of article 2 (1) (a), the Mandate is brought into line with the Electoral Council Complaints Handling Scheme, which lays down the internal procedure for dealing with complaints. The Electoral Council Mandate Decision had no explanatory notes. This is provided for by the explanatory notes to the amendment to the Electoral Council Mandate Decision.