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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION)

in co-operation with THE FEDERAL MINISTRY OF THE INTERIOR OF THE REPUBLIC OF AUSTRIA

8TH EUROPEAN CONFERENCE

OF ELECTORAL MANAGEMENT BODIES

"ELECTIONS IN A CHANGING WORLD"

Hotel Wimberger, Vienna, Austria 12 - 13 May 2011

REPORTS

Synopsis

The eighth European Conference of Electoral Management Bodies "Elections in a changing world" was organised by the Venice Commission in co-operation with the Federal Ministry of the Interior of the Republic of Austria on 12-13 May 2011. The issues which were addressed during the conference included the recent elections in Member States, as well as a range of issues concerning the role of modern technology and social media in elections, the transparency of the electoral process and the latest developments in the field of electronic voting.

Around 80 participants from national electoral management bodies of the following countries attended the conference: Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Brazil, Estonia, Finland, France, Georgia, Germany, Hungary, Republic of Korea, Kyrgyzstan, Latvia, Lithuania, Mexico, Moldova, Netherlands, Portugal, Russian Federation, Serbia, Slovak Republic, Slovenia, Switzerland, Tajikistan, Ukraine, United Kingdom, United States, Uzbekistan as well as members of the Venice Commission and representatives of the Parliamentary Assembly of the Council of Europe, the Congress of Local and Regional Authorities of the Council of Europe and representatives of the Council of Europe's Directorates General of Democracy and Political Affairs and the Head of the Council of Europe Office in Vienna.

Also represented were the Organisation for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights; the United Nations; International IDEA, and the Inter-American Union of Electoral Organizations (UNIORE). Several international NGOs active in the electoral field also participated in the conference.

The conference was opened by Mr Mathias Vogl, Director General for Legal Affairs in the Federal Ministry of the Interior and Deputy Chair of the Federal Electoral Board, Austria, and Mr Gianni Buquicchio, President of the Venice Commission, the Council of Europe.

Reports on member states' recent elections were presented by Mr Mazahir Panahov, Chairman, Central Electoral Commission of Azerbaijan; Ms Irena Hadziabdic, President of the Central Electoral Commission of Bosnia and Herzegovina; Mr Julio Cesar Zelner Goncalves, Brazilian Ambassador in Vienna; Mr Jussi Aaltonen, Ministerial Adviser, Ministry of Justice of Finland; Mr David Gurgenidze, Central Election Commission of Georgia; Mr Akylbek Sariev, Chairman of the Central Electoral Commission of Kyrgyzstan; Mr Arnis Cimdars, Chairman of the Central Electoral Commission of Latvia; Mr Iurie Ciocan, Chairman of the Central Electoral Commission of Moldova; Mr Pavol Kacic, Ministry of Interior of the Slovak Republic and Mr Peter Wardle, Chief Executive, United Kingdom Electoral Commission.

The conference heard a presentation on the activities of UNIORE by Mr Manuel Gonzalez Oropeza, Electoral Justice, Federal Electoral Tribunal of Mexico, Substitute Member of the Venice Commission for Mexico.

The keynote speakers were Commissioner Donetta Davidson, Chair of the U.S. Election Assistance Commission; Prof. Dr Alfred Taudes, Vienna University of Economics and Business; Prof. Dr Ülle Madise, Legal Adviser to the President of the Republic of Estonia; Mr Nguyen Huu Dong, United Nations Development Programme in Mexico, and Mr Héctor Dávalos Martínez, Electoral Court of the Federal Judiciary of Mexico.

The conference would like to thank the moderators of the workshops : Ms Christiane Egert-Wienss, Federal Statistical Office, Germany; Prof. Dr Herdis Thorgeirsdottir, member of the Venice Commission, Council of Europe; Ms Heleen Hormann, Electoral

Council of the Netherlands ; Mr Peter Wardle, The Electoral Commission, United Kingdom; Mr Leonardo Valdés Zurita, Federal Electoral Institute, Mexico; Mr Robert Stein, Federal Ministry of the Interior, Austria; Mr Gregor Wenda, Federal Ministry of the Interior, Austria; Ms Ardita Driza Maurer, Federal Chancellery, Switzerland; Mr Robert Krimmer, OSCE/ODIHR.

The conference discussed such issues as the social media and the secrecy of the vote, the modern media influence on the electorate, the right to free vote and the impact of the digital age, the ways modern technology improve the election cycle, new approaches for organising smooth elections, the future of polling stations in the light of new voting channels, e-voting in the year 2011, how to tackle concerns and to maintain trust and possible steps to observe e-enabled elections.

The conference:

1. *Took note* of the information from participants about elections organised in their countries during 2010-11.

2. Underlined the continuing importance of work on international standards for the use of election technology such as the development of guidelines on the certification of e-voting systems and guidelines on transparency in e-enabled elections by the Council of Europe and of the technical assistance it provided to its Member States, and discussion papers by OSCE/ODIHR and other international observation missions on observation of e-enabled elections.

3. *Noted* that the principle of free and fair elections should be ensured.

4. *Was of opinion* that EMBs should support necessary measures to increase voter turnout. EMBs cannot directly influence political issues. However, with their experience they can assist the government in questions of "usability" and voting channels. The goal to ensure "usability" in the course of elections begins when dimensioning polling stations and ends with the implementation of postal voting or e-voting. Providing detailed, and easy-to-understand information to voters by EMBs is as important as instructing the members of the polling commissions, including the production of self-explanatory forms.

5. Noted that new technologies :

a. could improve the way in which EMBs manage the voting process, notably:

- geographic information systems and digital mapping can support the process of determining electoral boundaries,

- technology offers significant efficiencies in maintaining and updating voter lists and other records (such as lists of staff and polling locations), and in streamlining the organisation of polling day and vote-counting. It is important that where votes are counted mechanically or electronically, the process remains fully transparent in order to maintain confidence and prevent electoral fraud.

b. have a role where voters themselves are directly involved; however, it is important for EMBs to ensure that the use of technology is explained, understood and accepted by voters (so that their trust in the process is not damaged). For example: - social media can be used to support voter education and information; however, early publication of exit poll results and election results before the end of polling hours on election day could influence voters' decisions unduly and might endanger the conduct of free and secret elections. Social media do not create a new problem in this respect but increase the speed of messages being circulated among a broader audience;

- voters may be offered the chance to enroll on the voters' list online; and technology can be used to verify entries on the voters' list and to confirm voters' identities;

- EMBs can explore options to use technology in the voting process itself, including voting machines; digitally-readable ballot papers; and internet voting (which may offer particular benefits to out-of-country voters);

- when considering such options, EMBs should have regard to their legal, political and historical background;

- while making these considerations, EMBs should bear in mind the important principles of the Venice Commission in relation to e-voting and the relevant texts adopted by the Committee of Ministers of the Council of Europe.

6. *Was of opinion* that where considering how to use modern technology in the voting cycle, EMBs should have regard to:

a. control - overall control of the voting cycle, including the technology used, must remain with those legally responsible for elections,

b. cost - it is important to make a careful assessment of the true costs of the existing system and the proposed new system, in order to identify the true benefits,

c. community - if many voters choose to vote at home (by post or via the Internet), the voting process becomes somewhat less of a collective community activity.

7. *Recalled* the importance of equal access to the internet as a global public good and that its governance should be exercised in the common interest as an integral part of the freedom of expression and information, and underlined:

a. the need for public authorities to :

- raise awareness of the electorate, candidates, EMBs on the potential dangers of the use of social network sites ;

- protect "net neutrality", the principle of equal access to information online in line with the Council of Europe Committee of Ministers' Declaration adopted at its 1094 session on 29 September 2010, to promote the public service value of the internet, its openness, and integrity and adopt the necessary measures in accordance with the rights guaranteed by the ECHR and; b. to provide accurate, neutral, exhaustive and timely information to the voters and media; this is the responsibility of EMBs.

The date and venue of the ninth European Conference of Election Management Bodies will be confirmed at a later stage.

Opening Address of Dr. Mathias Vogl, Director-General of Legal Affairs, Federal Ministry of the Interior Deputy Chair of the Federal Electoral Board

Ladies and Gentlemen, Dear Colleagues, Esteemed Guests,

It is a great pleasure for me to welcome you to the 8th European Conference of Electoral Management Bodies in the capital of Austria – in Vienna.

Ms. Johanna Mikl-Leiter, Federal Minister of the Interior and Chairperson of the Austrian Federal Electoral Board, asked me to extend her warmest regards and best wishes for this conference. She deeply regrets not to be with you today as she was called to an extraordinary meeting of the Justice and Home Affairs Council in Brussels.

I am truly impressed with the great number of experts and delegations at this Conference, which shows the crucial role this yearly meeting of the Venice Commission plays for election officials.

I would particularly like to greet

- Dr. Gianni Buquicchio, President of the Venice Commission;
- Representatives from the Council of Europe;
- Commissioner Donetta Davidson, Chair of the U.S. Election Assistance Commission;
- Representatives from UNIORE, the "Inter-American Union of Electoral Organisations", and from Mexico;
- Representatives from the United Nations and the OSCE;
- high level delegates and representatives from a large number of Council of Europe Member States;
- as well as from a variety of other countries in different parts of the world including Central Asia, Brazil, and the Republic of Korea.

All in all, I am delighted to note that representatives from around 30 countries are present in this meeting.

The Austrian Federal Ministry of the Interior is the nation-wide Electoral Management Body and the co-organiser of this Conference.

The Ministry administers all federal elections and instruments of direct democracy. Besides, it provides back-up and support to the Federal Electoral Board, the supreme election commission in Austria.

I am therefore particularly glad to also welcome Professor Werner Zögernitz, Member of the Austrian Federal Electoral Board.

Besides, I would like to greet Dr. Brigitta Blaha and other representatives of the Federal Ministry of European and International Affairs, who provide assistance and services to Austrians abroad in elections.

Ladies and Gentlemen,

Vienna has always played a unique role in Europe. For decades, it was a "hub" between the "eastern world" and the "western world". Fortunately, these black-and-white schemes of political

thinking are long gone and today Vienna is in the center of a vibrant and aspiring continent, reaching out to the whole world.

Vienna is also the seat of a number of international organisations, including the UN, the OSCE, and OPEC. The Venice Commission's efforts are held in high regard in Austria. There is a long and well-established co-operation between the Austrian EMB and the Secretariat of the Venice Commission in electoral matters and Austria has always actively contributed in the format of the EMB conferences.

Ladies and Gentlemen,

Elections in Austria are organised in particularly great detail and the stunning number of 13,000 election commissions are on duty on an election day. Some roots of the legal framework of Austrian elections still date back to the monarchy.

The main elements are based in the Federal Constitutions of 1920 and of 1929. Organising elections is a team effort. Hundreds of thousands of poll workers and civil servants throughout the country are devoted to ensuring safe and smooth elections on a poll day and in the weeks before and after the election.

The high degree of professionalism has repeatedly been stressed by the electorate and outside observers alike. Another indication for this professionalism is a small number of election reversals by the Constitutional Court. In the past three decades, only two nation-wide elections have been partly revised.

This evening, after the end of the first two working sessions and workshops, you will be able to learn a little bit more about Austrian history against the background of elections and referenda. You will be invited to a reception in the Federal Ministry of the Interior, where we have assembled an exhibition of historic election campaign posters mirroring the different stages of the country's changeful history.

Not only history shows us that we must never stop learning. Fora like the EMB Conference allow us to learn from each other, to exchange ideas and best practices, and to take up new challenges. Austria has gained a lot of profit from past Conferences of the Council of Europe and the Venice Commission and has hopefully also been able to provide useful information or food for thought.

Ladies and Gentlemen,

The overall topic of this year's Conference is "Elections in a changing world". As the past months have shown, the world is changing by all means.

Long-time political systems collapsed and the demand for freedom and democracy was suddenly voiced in an unprecedented way. New technologies and media such as social networks played an important role in these political changes.

But even in solid democracies citizens and the government are currently in the process of finding new ways to communicate with each other and to redefine their mutual relationship and the degree of public participation. Web 2.0, E-Government and Open Government are just some key words in this respect.

Austria is fully aware of these phenomena and internationally known as a forerunner in terms of e-government applications. It is obvious that Electoral Management Bodies cannot negate these developments but have to keep track of new technological developments in the field of democratic participation.

The internet, mobile phones, Facebook, Twitter, Xing, LinkedIn and many other new tools influence almost everybody's daily life in one way or another. Thus it is only logical that they also have an impact on voters and their behaviour. New voting channels can not only keep participation and voting attractive. They may also enable electors to cast their vote, who would have otherwise been excluded from the ballot.

Therefore, this conference will not only deal with the role of modern technology and social media in elections but also with the question how to organise smooth elections in the future and where the road will lead us with regard to electronic voting.

Elections in Austria enjoy solid trust in society and a high degree of transparency. It goes without saying that these high standards have to be maintained, no matter which new technologies will be decided upon and implemented in the future.

Staying on the thin line between accessibility, user-friendliness, and the highest degree of security in elections is a top challenge for all EMBs. Whatever we will achieve in the rapidly advancing field of new technologies, the secrecy of the vote must never be compromised!

Ladies and Gentlemen,

Esteemed Guests,

Let me reiterate what a delight it is to have you here. Austria appreciates the honour to have been considered this year's host country for the EMB Conference and I look forward to two exciting and fruitful days.

I am convinced that they will show how seriously and professionally Electoral Management Bodies tackle the challenges of a "changing world" – and will continue to do so in the future in order to guarantee free, equal, universal, and secret elections. Thank you.

Discours de Gianni Buquicchio Président de la Commission de Venise

Mesdames et Messieurs,

Cette conférence en est à sa huitième édition et la Commission de Venise se félicite de voir que cette initiative prend de l'ampleur et que nous pouvons continuer de compter avec la participation et le soutien des administrations électorales, toujours plus nombreuses, d'Europe et d'autres pays.

Je tiens tout d'abord à remercier le Ministère fédéral de l'intérieur de la République d'Autriche pour l'excellente organisation de cet important évènement et l'accueil chaleureux qu'ils nous ont réservé.

Je salue également les participants, particulièrement nombreux à l'occasion de cet évènement. Cela prouve l'intérêt des rencontres multilatérales entre les responsables nationaux d'élections, dans une approche paneuropéenne :

Une approche paneuropéenne, mais qui va bien au-delà de l'Europe, à voir les nombreux représentants d'autres continents, notamment des pays comme le Brésil, la Corée, les Etats-Unis, le Kazakhstan, le Kirghizistan, le Mexique, l'Ouzbékistan et le Tadjikistan.

La diversité géographique se combine ainsi avec la diversité des expériences juridiques et politiques et je me réjouis de l'intérêt que les représentants d'autres pays portent à cette initiative.

Les travaux menés dans le cadre de la Conférence européenne des administrations électorales suscitent un grand intérêt de la part d'autres organisations internationales et régionales. Je tiens particulièrement à saluer l'UNIORE, dont le Mexique détient la présidence en 2011, et qui souhaite établir une coopération plus étroite avec notre conférence afin de faciliter le dialogue et les échanges d'informations entre les administrateurs d'élections d'Europe et des Amériques.

J'espère que nos échanges de vues à cette occasion seront fructueux et qu'ils nous permettront d'aborder ensemble les nombreux défis du processus électoral dans nos continents respectifs.

J'en viens maintenant au sujet des débats de ces deux jours, les élections dans un monde en mouvement. Nous aurons l'occasion d'aborder des thèmes aussi complexes que passionnants, à savoir le rôle de la technologie moderne et des médias sociaux, la transparence du processus électoral et le vote électronique.

Nous aurons aussi l'occasion de partager nos idées sur l'influence exercée par les électeurs sur le travail des organismes chargés d'organiser une élection, surtout sur leur perception des innovations et l'interaction entre les différents acteurs du processus électoral.

Il est vrai que les nouvelles technologies nous donnent beaucoup de moyens pour optimiser notre travail. Mais est-ce que les outils que nous choisissons ne mettent pas en danger la crédibilité du processus électoral et les valeurs que nous défendons, les valeurs du patrimoine électoral européen?

Comment s'assurer que les procédures du vote à l'aide des outils technologiques, la transmission des résultats et d'autres informations sensibles dans le cadre d'une élection ne remettent pas en cause le respect des cinq principes du patrimoine électoral européen qui sont le suffrage universel, égal, libre, secret et direct ?

Dans le domaine qui fait l'objet de nos discussions, aujourd'hui et demain, nous pouvons nous référer en particulier aux Droits de l'Homme et notamment :

- le droit à la liberté d'expression politique, y compris la liberté de rechercher, de recevoir ou de communiquer des informations ou des idées afin que les électeurs puissent faire le choix éclairé nécessaire à la libre expression de leur volonté ;

- le droit à un accès équitable aux médias publics dans le cadre électoral.

De manière générale, une élection libre est une élection où les candidats peuvent s'affronter sans aucun obstacle érigé par les autorités et où l'électorat a de réelles options et librement accès à des informations concernant ces options.

Dans ce contexte, les médias ont un rôle important à jouer pour aider les électeurs à faire un choix réel et éclairé. L'attitude des médias publics durant une campagne électorale est par conséquent un critère d'évaluation important de sa conformité aux principes du patrimoine électoral européen¹.

Les informations sur une élection accessibles aux électeurs et les conditions générales de la liberté de l'échange d'information entre les différents acteurs créés par l'administration électorale déterminent en grande partie le niveau de confiance de chaque électeur dans le système.

Les développements récents dans beaucoup de pays d'Europe et ailleurs démontrent que les électeurs, ou au moins une partie considérable de ceux qui votent, veulent jouer un rôle plus actif dans le processus.

Les nouvelles technologies ont permis de créer de nouveaux espaces d'échange d'information. Il ne s'agit plus seulement des sites internet où on peut uniquement recevoir l'information, mais aussi de plateformes comme Twitter ou Facebook, pour ne mentionner que quelques exemples, où on peut dialoguer en direct et échanger des informations en temps réel.

Les citoyens se servent de plus en plus de ces différents moyens techniques pour faire campagne, mobiliser leurs partisans ou, très souvent, obtenir des preuves matérielles d'une violation des droits électoraux.

Je crois qu'un des axes principaux de nos échanges sur les nouvelles réalités dans le processus électoral pourrait être le problème des possibles voies d'interaction entre les électeurs et les administrations électorales dans les nouvelles conditions technologiques.

Quelles sont les attentes des personnes qui vont voter et comment les administrations peuventelles adapter leurs méthodes de travail pour réagir rapidement aux exigences de la société civile ?

Beaucoup d'entre vous avaient déjà développé des programmes et des nouveaux outils et méthodes de travail qui ont donné de très bons résultats. Cette conférence est une bonne occasion pour échanger ces expériences.

Dans le monde d'aujourd'hui, les moyens électroniques d'échange d'informations occupent une place capitale. Cela a affecté directement le côté technique de l'organisation des élections. Voilà presque une décennie que beaucoup d'entre nous participent aux échanges de vues sur le vote électronique.

Est-ce que les nouvelles technologies nous permettent de garantir le respect des principes du patrimoine électoral européen et de nos standards ? Certains d'entre nous pensent que « oui » et utilisent déjà le vote électronique, d'autres sont plus sceptiques ou hésitent encore.

¹ Voir CDL-AD(2010)037 <u>Rapport sur le calendrier et l'inventaire des critères politiques d'évaluation d'une élection adopté par le Conseil des élections démocratiques lors sa 34e réunion (Venise, 14 octobre 2010) et par la Commission de Venise lors de sa 84e session plénière (Venise, 15-16 octobre 2010).</u>

La Commission de Venise, quant à elle, a exprimé son opinion sur le vote électronique dans le Rapport sur la compatibilité du vote à distance et du vote électronique avec les standards du Conseil de l'Europe adopté par la Commission de Venise lors de sa 58e session plénière (Venise, 12-13 mars 2004)², qui rappelle qu' :

« …en ce qui concerne le vote électronique, le Code de bonne conduite en matière électorale prévoit à son point I.3.2³ que ce type de vote ne doit être admis que s'il est sûr et fiable. En particulier, l'électeur doit pouvoir obtenir confirmation de son vote et le corriger, si nécessaire, dans le respect du secret du vote. La transparence du système doit être garantie… ».

Plusieurs pays utilisent déjà les techniques de vote mécanique et électronique ou sont sur le point de le faire. Ces techniques présentent un avantage manifeste lorsque plusieurs élections ont lieu simultanément, même si certaines précautions doivent être prises pour limiter les risques de fraude, ce qui peut notamment se faire en permettant à l'électeur de contrôler immédiatement l'enregistrement de son vote.

Il est bien sûr important de s'assurer que les bulletins de votes soient conçus de manière à éviter toute confusion.

Quoi qu'il en soit, c'est l'électeur qui reste le juge suprême de toute innovation dans le domaine des élections.

Ces questions seront reprises plus tard en détail. Je ne les développe donc pas davantage.

Avant de conclure, je voudrais parler de l'avenir. Les conférences européennes des administrations électorales se tiennent désormais à intervalles réguliers.

Au terme de cette réunion, des propositions pourront être faites quant au thème et au lieu de notre prochaine rencontre.

La Commission de Venise continuera d'organiser la conférence européenne des administrations électorales, mais nous pensons toujours qu'il serait souhaitable et utile de le faire en coopération avec une administration électorale nationale. Je voudrais inviter les représentants des pays qui pourraient et voudraient accueillir une des prochaines conférences à l'indiquer, si possible avant la fin de nos travaux.

En vous souhaitant plein succès dans vos travaux, je vous remercie de votre attention.

² Voir CDL-AD(2004)012.

³ Voir CDL-AD (2002) 023rev.

The general elections 2010 in Bosnia and Herzegovina

Irena Hadziabdic Central Electoral Commission President

The General Elections in Bosnia and Herzegovina were held on October 3, 2010. The General Elections were held for the following levels of government:

- > The Presidency of Bosnia and Herzegovina
- The House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina
- > The President and the Vice Presidents of Republika Srpska
- > The National Assembly of Republika Srpska
- The House of Representatives of the Parliament of Federation of Bosnia and Herzegovina
- Cantonal Assemblies

It is very important to underline the progress the BiH Central Election Commission (BIH CEC) made in regard to previous elections held in Bosnia and Herzegovina, which refer to the following segments of the elections process: for the first time the BiH CEC organized and administered the elections in the diplomatic representation offices of BiH (in four countries at seven locations); by establishing the "Integrated election information system in BiH" the municipal election commissions for the first time submitted the results electronically; for the first time the BiH CEC verified minutes from all polling stations and in 267 minutes out of 5.300 minutes the BiH CEC found observers' notes that pointed out eventual irregularities; for the first time an expert graphologist opinion was requested to note the irregularities at VLs; for the first time the BiH CEC had almost commercial campaign in order to motivate as many citizens as possible to cast their vote (the turnout increased for 1,21 %, from 55,31 % to 56,52 %); for the first time the BiH CEC conducted investigation regarding valid and spoiled/invalid ballots. (This investigation showed that the great number of ballots was blank, which can be justified by the dissatisfaction of voters).

For example, the percent of invalid ballots for the BiH Presidency was 8,73% and the investigation showed that 2,13% was spoiled, while 6,60% was left blank.

In the preparatory phase of the 2010 General Elections the BiH CEC put a lot of efforts in ensuring the maximum protection of the election process. The key activities that were implemented by the BiH CEC from the aspect of the election's safety and prevention of any abuse regarding printing, delivery and processing of the ballots referred to set up of a Safety Committee consisting of representatives of the BiH CEC, and security agencies in BiH.

Aimed at ensuring high safety of IT support and data processing the BiH CEC, with financial assistance of the USAID and the OSCE, implemented the project "Integrated election information system in BiH", which showed its first results at the 2010 General Elections. Nevertheless, the process of IT modernization is still not finished and additional efforts must be put into constant upgrading of the system aimed at acquiring high quality references for more efficient implementation of the future elections in BiH.

However, the analyses of the 2010 General Elections showed that there are certain areas that need improvement:

- Composition of the polling station committees as they proved to be the weakest link in the process.

- It is necessary to establish more active and stronger cooperation between the BiH CEC and other bodies that have significant role in creating accurate voters' registers, as i.e. Ministry of civil affairs and Ministry for human rights and refugees of BiH.
- Having in mind low interest of BiH citizens abroad to vote at the BiH Embassies, because out of 22 planned countries the elections were held in four of them, the issue of financial viability of organizing voting at the embassies is now opened from the aspect of preparation, education and ensuring organization-technical conditions for voting or additional efforts should be put into motivating BiH citizens to use this opportunity and vote at the embassies.
- Furthermore, the fact that 7 months after the General Elections in BiH there is no parliament or government established at the state level, indicates that mechanisms for respecting legal deadlines for establishment of government must be introduced into the law.
- Last, but not least, there is the most important obligation for BiH from December 2009, and that is implementation of the decision of the Court for human rights in Strasbourg (Sejdic and Finci vs. BiH) in order to provide opportunities for representatives of "Others" to be elected for at least as the members of the BiH Presidency and the House of People of the BiH Parliamentary Assembly.

Presentation on 2010/2011 electoral events - Brazil -Ambassador Julio Cezar Zelner Gonçalves

Dr. Maria Theresia Fekter, Federal Minister of the Interior and Chair of the Federal Electoral Board,

Dr. Gianni Buquicchio, President of the Venice Commission,

Distinguished participants,

Good morning. I am speaking on behalf of the President of the Brazilian Superior Electoral Court, Minister Ricardo Lewandowski, who was unable to attend this meeting as his presence was required for important hearings in Brazil.

For this reason, I will focus on the Brazilian 2010 elections, in the context of the main purpose of this event: to exchange information about the national experiences on elections in a changing world.

Presently, I would like to take this opportunity to comment on the Brazilian experience as a country which held elections in October 2010, with a successful track record in the use of biometric registration and electronic ballot boxes, both of which eliminate fraud and enable us to count the votes on the same day of the election. Last year the electronic ballot boxes were closed at 5 pm and the results were announced three hours later, at 8 pm, when 97% of the votes were already counted. The idea is to enable us to draw analogies and to promote cooperation on aspects that might be of shared interest.

Facts

The largest computerized election in the world took place in Brazil, in accordance with provisions set out in the Brazilian Constitution, Electoral Code, electoral laws and resolutions, which specifically regulated the electronic ballot boxes system. As in every four years, in 2010 Brazil held elections for President, Governors, Senators, Federal and State Deputies. Municipal elections for mayors and city councillors are also held every four years – the next municipal elections will be held in 2012.

In the first round of the 2010 presidential elections, 111 million turned out to vote (82% of the total) from the 135.8 million voters (population: 193 millions) with 91.36% valid votes. In the second round, 106,6 million (78,5%) turned out to vote, with 93% of valid votes. 200 thousand citizens abroad voted in electronic ballot boxes sent to the Brazilian Embassies and Consulates. 482 thousand electronic ballot boxes were made available, 420 thousand were used, 277 thousand of which are able to identify voters biometrically. One million of those voters were identified biometrically.

In a territory of 8.5 million square kilometres, which includes 400 indigenous villages, there were 20 thousand candidates, 400 thousand electoral sections, 2.1 million electoral pool staff, 13 thousand technicians and 15 thousand officers of the Electoral Justice working with the elections. Furthermore, 198 international electoral observers, from 45 countries, participated in the two rounds of the elections, in eight Brazilian federal states. Most of the observers came on their own initiative, having applied for the authorization to follow the elections, especially to see the voters casting their vote and system of electronic ballot boxes in operation.

Investment

For the 2010 elections, Brazil invested in three areas related to the electronic ballot boxes: vote casting, data transmission and votes counting. Firstly, 40 % of the 1998 electronic ballot boxes were replaced by new ones. Secondly, the communications network was enlarged to facilitate

the transmission of the results: Brazil has points of broadcasting in each of its 3.000 polling stations, which convey the data to 27 Regional Electoral Courts and these, in turn, to the Superior Electoral Court. There are additional 1.200 satellite transmission points in mobile stations, which operate on batteries and are temporarily installed in distant areas, mostly in the Amazon region. Last but not least, the counting of votes was improved by the use of new flash cards in the computers, updated software and purchase of sixty new computers to be used for that purpose by the Regional and the Superior Electoral Courts.

As a result, the time spent to aggregate the number of votes was reduced by 50%. For instance, in 2008, 8.43 'Boletins de Urna –BU' (Ballot Box Bulletin of the results in every electoral section) were processed every second. In 2010, 15.97 Ballot Box Reports were handled per second.

Electronic ballot boxes were shut down at 5 p.m. As mentioned before, in the second round of the 2010's election, 3hours later -- at 8 p.m. -- 97% of the votes were known; in 2006, this number was 74% and in 2002, 15%.

Progress was achieved in the counting speed of the cast votes under full security criteria: the electronic ballot boxes worked on a 'stand-alone' basis, and they were not connected to any communication network. This provision reduced a risk of hacker attacks both in the casting of votes and the counting process.

On the day of the elections, at 5 p.m. all ballot boxes were closed and locked passwords. The votes were promptly processed and the results of each electoral section were printed on paper and posted at the polling station, making the total of votes for each candidate available to the public in every electoral section.

These printed results were equally recorded in a digital media , duly signed through digital certifications enclosing cryptographic data. This recorded media with the results was forwarded to a point of transmission, which was linked to the Superior Electoral Court data communications network. A private network of the Electoral Justice was used, which was untied from the internet on the eve of the elections.

From the election offices points of broadcasting, bulletins were sent to high processing power computers, which were installed in the data centres of all 27 Regional Electoral Courts. Once these data arrived at these computers, they passed through a routine verification of originality of signature and integrity. They were consolidated by means of a process called 'aggregation'. The computer aggregated data in categories regarding provincial candidates, as well candidates at the national (federal) level, which were then sent to the Superior Electoral Court. A similar aggregation for the post of President of the Republic was achieved in the same manner.

Main points

Three main elements distinguished the Brazilian electoral system in 2010: the use of electronic ballot boxes, biometric voter registration and the combination of both processes.

• Electronic ballot boxes

All voters used the electronic ballot boxes, which both hardware and software were developed by the Superior Electoral Court, in compliance with national legislation and by applying the standards enshrined in the concepts of durability, safety, logistics facilities, autonomy, reduced cost and standard pattern.

The certification of the ballot boxes took place both during the manufacturing process and as their digital files were produced. Purchased on the national market, the ballot boxes were manufactured to fulfill the Superior Electoral Court technical specifications and were manufactured under an *in situ audit* by a team of Superior Electoral Court technicians. The

inspection of this process continues in various subsequent stages and even on the day of the election.

The current unit cost of a ballot box was US\$ 714. During the second round of the 2010 Brazilian elections, 0,4% of the electronic ballot boxes had problems and were promptly replaced. Manual voting happened in only three electoral sections (0,001% of the total of 419.548 electoral sections).

• Biometric electoral registration

In 2010 more than 1 million voters were biometric registered: in addition to the photo of the voter, his/her biometric identification was made, with images of fingerprints from all of the fingers. On Election Day, after the voter's registration card was presented jointly with a photographic ID, the identity of the voter was confirmed by biometric fingerprint recognition.

In order to re-register voters according to their biometric data, the Electoral Justice made the so called 'Bio Kits' available to all electoral constituencies, which comprise a portable computer (laptop), a digital camera, a scanner and a mini photographic studio. Its costs amounted to circa USD 6,700. The technology that the 'Bio Kit' uses enabled the photo and fingerprints of the voter to be taken in an easy and quick manner. The scanner read the fingerprints, and a computer programme was used to correct possible errors of image positioning, focus and lighting automatically.

Electronic ballot boxes with biometric identification.

Finally, biometric ballot boxes capable of processing the vote through biometric identification were used by used 1.2 million citizens in 60 cities. It is hoped that 155 million voters will use ballot boxes with biometric readers in every city of the country by 2018.

Transparency

In addition to the security procedures mentioned above, the Brazilian electoral process excelled in its transparency: political parties, the Brazilian Bar Association and/or Brazilian Public Prosecutor's Office were legally enabled to participate in the process, in various ways, from the verification of the source code for the software programmes to be used in the elections to the simulated electronic voting aimed at corroborating the electronic ballot box operation conditions at the same time and date of the official electronic voting (ballot boxes are randomly chosen on the day before the election).

In addition, the Superior Electoral Court allowed political parties, the Brazilian Bar Association and/or Brazilian Public Prosecutor's Office to participate in all of the public security tests of the electronic voting system, which are also open to community trials in order to check the probability of faults or fraud attempts.

Within this context, trust in the electoral voting system had been reached by means of a reliable voter registration; by building a precise, verifiable and consistent electoral process; by a high degree of transparency applied to the process; by various controls and security mechanisms developed along the process; and, above all, by the maturity of the process without recording any corroborated flaws or irregularities in 14 years.

International Electoral Observers

As for international observers, in 2010, a work programme was organized for 198 foreign visitors, from 45 countries, that observed the elections in eight Brazilian states. As mentioned before, most of them asked if there was possibility to see in loco the electronic ballot boxes working. They were impressed by the simplicity, the security and the speed of the system. International instruments were signed on that occasion, as well as Joint Declarations and press releases

about the interest in developing the international cooperation on electoral matters with regional groups. These elements seem to confirm the credibility and the positive results of the use of the electronic ballot boxes in Brazil.

To conclude, on behalf of Minister Ricardo Lewandowski, President of the Superior Electoral Court of Brazil, I would like to reiterate that should any of you be interested in further details of our electoral system, the Superior Electoral Court remains available to share its experience with electoral authorities from any country in the world.

Thank you very much.

2011 Parliamentary elections in Finland Jussi Aaltonen, Ministerial Adviser, Ministry of Justice

Introduction

In Finland, the 2011 Parliamentary elections were held on Sunday, 17 April in accordance with the Election Act enacted in 1998 (714/1998). Due to the amendment to the Election Act (431/2010, entered into force on 1 June 2010), the elections were held in April instead of March.

Every Finnish citizen, who has reached the age of 18 not later than on the day of the elections, has the right to vote in Parliamentary Elections. In 2011 Parliamentary Elections, the total number of persons entitled to vote was 4,387,701. The number of persons entitled to vote residing in Finland was 4,159,857 and the number of expatriates entitled to vote was 227,844.

Voting channels

In Finnish elections, the voters may vote either on Election Day, or in advance during the advance voting period. The number of advance polling stations in Finland and abroad has increased, whereas the number of polling stations on Election Day has been decreasing.

Since the 1990s, the number of advance voters has exceeded one million in all Parliamentary and Presidential elections, whereas earlier it remained at half of that number. This time, the total number of advance voters was 1,342,772, which was 45 % of all those who exercised their right to vote (the proportion of advance voters is quite stable: it was 44.1 % in the 2007 Parliamentary elections).

The general advance polling stations, where any person entitled to vote may do so, are in Finland e.g. in shopping malls, municipal offices, post offices – this time there was one even at the country's main airport. There are also mobile advance polling stations on ferryboats in the archipelago and in buses especially in the sparsely inhabited parts of the country. There is at least one advance polling station in every municipality.

So-called special advance polling stations, operated by mobile committees, are hospitals, prisons and some other institutions where only the people who receive treatment there or who are prisoners may vote.

A person whose ability to move or function is so restricted that he or she is unable to come to an advance polling station or a polling station on Election Day may vote in advance at home. This means that an election official comes to the voter's home to receive the ballot. Due to the amendment to the Election Act (431/2010), the family carer of a person entitled to vote at home, living in the same household, had in these elections for the first time the right to vote in the same context.

On Election Day, there is at least one polling station in every municipality. The total number of polling stations in the whole country was 2,361. On Election Day, the voters may cast their votes only at the polling station stated in the voting register and on the polling card sent to them before the elections.

Voter registration

In Finland, the Population Register Centre compiles automatically a nationwide voting register from the constantly updated Population Information System (PIS) 46 days before Election Day. The voting register is a single centralised database, which contains information on the voters (e.g. name, personal ID number, electoral district, municipality of residence, and polling station) as it is in the PIS 51 days before Election Day.

The voting register is publicly available at the local register offices. Claims for correction of the register may be submitted to the local register office and, subsequently, the decision of the local register office may be appealed against at the regional administrative court. This time, only one claim for correction was made. The voting register is legally valid 12 days before Election Day at noon.

During the advance voting, the election officials at the advance polling stations check the voter's right to vote from the centralised voting register (franchise data) and mark those who have voted in the voting register immediately. Later, the voting register is used for printing out the electoral rolls for the polling stations on Election Day. Those persons who have voted in advance are not included in the printed electoral rolls used in the polling stations on Election Day.

This procedure has been in use since the mid-1990s. This time, a pilot project on the online use of voting register was also carried out on Election Day in 31 voting districts across the country. Once a person had used his or her right to vote, this was recorded in the electoral roll at the polling station instead of marking it manually to an electoral roll in paper form. For this purpose, the election boards had ordinary laptops equipped with a card reader and a barcode reader. The polling stations communicated with the centralised voting register via Internet connections. When logging in to the system, online banking codes or electronic identity card was required.

Election funding

The Act on a Candidate's Election Funding (273/2009) entered into force on 1 May 2009. The Act lays down new provisions on a candidate's election funding and its disclosure in Parliamentary elections. The amendments to the Act on Political Parties (10/1969) concerning the funding of political parties entered into force on 1 September 2010.

The election funding disclosure must be filed with the National Audit Office within two months of the confirmation of the election results. A candidate may also file an advance disclosure with the National Audit Office containing an estimate of the campaign funding and costs.

The National Audit Office maintains on its website an online register containing the information on the election funding disclosures and advance disclosures and on the funding of political parties.

Information to the voters

Some examples of the information channels that the Ministry of Justice used in connection of these elections:

- A polling card (a notice of right to vote) was sent to all those entitled to vote. Enclosed was a list of the advance polling stations in the voter's own electoral district with their addresses and opening hours.
- Information about the Parliamentary elections in 20 different languages was published on the Elections website of the Ministry of Justice. On this website, videos in sign language (in Finnish and Swedish sign language used in Finland) were also available.
- Information in electronic and audio formats and in Braille was published in cooperation with the Finnish Federation of the Visually Impaired.

- Info spot for TV
- Free information service was available to the voters, a total of 2,700 phone calls were answered.
- A letter was sent to those 120,000 people who were entitled to vote for the first time and a plain-language brochure was published.
- The Ministry of Justice had a Facebook account.

Results

The True Finns emerged as the winner of the elections, as all the other parliamentary parties lost their support compared to the previous Parliamentary elections. The True Finns increased their support by 14.9 percentage units, thus gaining 19.0 per cent of the votes in the entire country, which raised it from the smallest parliamentary party into the third largest party in Finland with 39 MPs. The National Coalition Party emerged as the largest party with 44 seats and 20.4 per cent of the votes cast. The Social Democratic Party became the second largest party with 42 seats. The Centre Party of Finland lost most in the elections, as it dropped from the largest party to the fourth largest party with 35 MPs in the Parliament.

The OSCE ODIHR elections assessment mission

The 2011 Parliamentary elections were the first Finnish elections to be monitored by an assessment mission of the OSCE. The mission was carried out by a team of seven election experts from as many OSCE participating States.⁴

Conclusive remarks

The election participation did increase compared to the 2007 Parliamentary elections. In the 2011 elections, the voting turnout in Finland was 70.5 %, with an increase of 2.6 percentage units compared to the previous Parliamentary elections in 2007.⁵ The voting turnout of Finnish citizens residing abroad was 10.7 per cent, which is 2.1 percentage units higher than in the previous Parliamentary elections. The voting turnout rose in all electoral districts, except for the electoral district of Åland.

The rather slight amendments to the Election Act proved to be successful. It is still too early to assess the impact of the amendments on the provisions concerning election funding and its disclosure.

The pilot project on online electoral roll was promising and the experiment will most certainly be used to a larger extent in the next elections.

The observations and recommendations of the OSCE assessment mission are to be considered most carefully.

The Finnish parliamentary elections 2011

- The parliamentary elections were held in April instead of March
- The election participation was higher than in the previous parliamentary elections
- An experiment with online electoral roll was conducted at 31 polling stations across the country
- The number of advance polling stations in Finland and abroad was increased
- The family career of a person was given the right to vote at home
- New rules concerning election funding and its disclosure
- The OSCE elections assessment mission for the first time in Finnish elections

⁴ As a result, a report was published in 22 July 2011. According to the report, the parliamentary elections were professionally administered and commanded high levels of confidence. See http://www.osce.org/odihr/81130.

⁵ The total voting turnout, which includes the voting of Finnish citizens residing abroad, was 67.4, with an increase of 2.4 percentage units.

Information for the voters

- A notice of right to vote (Card of Information)
- Enclosed a list of the advance polling stations in the voter's own electoral district
- The Ministry of Justice elections website:
- Information in 20 different languages
- Sign web
- Information for visually impaired voters
- A letter to the 120,000 first-time voters
- Easy-to-read brochure
- Facebook
- TV –spot
- Free information service for the voters

Posters by Aalto University art school students





Presentation on elections in Georgia in 2010-2011

David Gurgenidze, Central Electoral Commission Member



Central Election Commission of Georgia CEC projects in 2010-2011

CONTENT

- CIVIC EDUCATION ACTIVITIES;
- > INTERNATIONAL ACTIVITIES;
- > INTERNAL DEVELOPMENT;
- > PUBLIC IMAGE BUILDING;



CIVIC EDUCATION ACTIVITIES EMPOWERING YOUNG GENERATION

- The CEC, together with the Ministry of Education and Science and UNDP Georgia launched civic education project for the students in schools of Georgia, September, 2010;
- The main goal of the project was to increase students' awareness about the elections; their civic rights and duties; to support students in conducting the self – governmental elections at schools;
- In total 7215 pupils of 9th-12th grades from 24 schools of 8 regions were involved in the project during 7 months;



CIVIC EDUCATION ACTIVITIES EMPOWERING YOUNG GENERATION (Cont.)

Results:

- 16 best students of the project took three months internship in relevant district election commissions;
- Students and teachers awareness on elections increased;
- Manual for the self-governmental elections at schools was prepared for the teachers of civic education classes;
- In 2011, 150 schools to be involved in the similar project;



CIVIC EDUCATION ACTIVITIES ENLIGHTENING STUDENTS IN ELECTION LAW

- Election administration and higher education institutions of Georgia signed MoU to launch mandatory election law courses for students of the Law Faculty;
- The goal of the course is to deepen the students' knowledge in election law in theory and apply it while discussing legal cases in practice;
- 14 higher education institutions (capital based and regional ones) are involved in the project; in 2010, more than 150 students passed the theoretical course;



CIVIC EDUCATION ACTIVITIES ENLIGHTENING STUDENTS IN ELECTION LAW (CONT.)

Results:

- Legal Clinics, at the CEC premises, serves as the hub for the students in applying their knowledge and discussing real life election disputes;
- > 25 best students from the targeted audience, participate in the mute courts at the clinics;
- Adapted election law course to be taught for the students of Journalism Faculties from 2011;



CIVIC EDUCATION ACTIVITIES INCREASING TRANSPARENCY AND ACCOUNTABILITY (CONT.)

- Students and ethnic minority representatives were invited at the CEC for observing the administrations daily activities and attending the CEC sessions.
- The main goal of the tours is increase visitors' knowledge on administrations' work and improve CEC's accountability;



CIVIC EDUCATION NETWORK OF REGIONAL RESOURCE CENTERS (CONT.)

- In 2011, 16 Regional resource centers will be created throughout Georgia;
- The main goal of the resource centers is to support the involvement of the general public in the electoral process, raise the levels of voter education and improve the links between the election administration and stakeholders in the regions;
- Primary targets will be women and young generation of national minorities residing in the country;



CIVIC EDUCATION IMPROVING ELECTION ENVIRONMENT

- Direct contact with voters via social networks and web based forum;
- CEC launched the photo contest "Select" to involve the young voters in the election administration activities;



INTERNATIONAL ACTIVITIES COOPERATING WITH ELECTION ADMINISTRATIONS

- The CEC of Georgia hosted the 19th Annual Conference of the Association of European Election Officials (ACEEEO) on September 9-11,2010 in Tbilisi, Georgia;
- The main goal of the conference was to discuss
 "Developing Accurate Voters' Lists in Transitional Democracies", to share international experience in improving voter's list; to present activities implemented by the election administrations on this topic;
- Over 160 officials from 39 countries participated in the conference



INTERNATIONAL ACTIVITIES COOPERATING WITH ELECTION ADMINISTRATIONS (CONT.)

- Central Election Commission hosted election administrations of Eastern Europe- Central Asia on February 9-11, 2011 in Sighnaghi, Georgia;
- The main goal of the meeting was to discuss the ways to elaborate joint methods for improving election environment in the wider region;
- 10 election administration high officials attended the meeting;



INTERNATIONAL ACTIVITIES ATTENDING OBSERVATION MISSIONS

- CEC members observed the Parliamentary Elections in Riga, Latvia, October 2, 2010;
- CEC member observed the Parliamentary Elections in Bishkek, Republic of Kyrgyzstan, October 10, 2010;
- CEC representatives observed the 2010 Mid-term Elections in the US, November 1-3, 2010;



INTERNATIONAL ACTIVITIES ATTENDING OBSERVATION MISSIONS (CONT.)

- CEC representatives observed Parliamentary Elections
 in Chisinau, Republic of Moldova, November 28, 2010;
- CEC representatives observed the Presidential Elections in Minsk, Republic of Belarus, December 19, 2010;
- CEC members observed Self-governmental Elections in Vilnius, Lithuania, February 27, 2011;



INTERNATIONAL ACTIVITIES SHARING KNOWLEDGE AND EXPERIENCE

- The CEC delegation visited Latvia and Lithuania, February, 2011;
- Official meeting with the National Electoral Commission of Poland; February 18, 2011;
- Newly elected Chairperson of the Central Electoral Commission of Republic of Moldova to visit Georgia for sharing experience of Georgian colleagues;
- MoU between Georgian and Armenian CEC to be signed on deepening bilateral cooperation;
- Georgian CEC to be part of Twinning Project with Lithuanian counterparts, as a result of the bilateral cooperation;



INTERNATIONAL ACTIVITIES

PARTICIPATING ON INTERNATIONAL STAGE

- International Electoral Process and Administration Conference, June, 2010, Brussels, Belgium;
- IFES' 2010 U.S. Election Program, November 1-3, 2010, Washington DC, the USA;
- Official meeting with OSCE/ODIHR, Warsaw, Poland, February 18, 2011;
- Set of meetings with stakeholders and a training program on raising public trust in electoral processes in UK, February, 2011;



INTERNAL DEVELOPMENTS STAFF CAPACITY BUILDING

- BRIDGE" training for election administration representatives;
- CEC members, Heads of Departments of the CEC, Chairpersons of 6 DECs, CEC staff participated in the trainings;
- The main goal of the trainings was to increase qualification for election administration staff for managing electoral processes in a better way;



INTERNAL DEVELOPMENTS CERTIFICATION PROCESS

- Certification of election administration conducted in October, 2010;
- The main goal of the certification is to develop a list of individuals certified individuals for possible employment within administration;
- Totally 1805 applications have been received; 633 in Tbilisi, 1172- in regions of Georgia;



INTERNAL DEVELOPMENTS MEETINGS WITHIN ADMINISTRATION

- Meetings to discuss reform of the electoral legislation and to receive recommendations from DEC representatives, July, 2010;
- Meetings of the DECs with local NGOs to discuss the electoral legislation and receive recommendations;



PUBLIC IMAGE BUILDING MEETINGS WITH STAKEHOLDERS

- Meetings to discuss reform of the electoral legislation and to receive recommendations from DEC representatives, July, 2010;
- Meetings of the DECs with local NGOs to discuss the electoral legislation and receive recommendations;
- Debrief of media representatives on 2010 elections and CEC's activities, July, 2010;
- Meeting with Media Experts to discuss media monitoring standards and practices of broadcasting during election period, November 30, 2010;



PUBLIC IMAGE BUILDING MEETINGS WITH STAKEHOLDERS (CONT.)

- Permanent meetings with stakeholders including political parties, local non-governmental organizations, and International Organizations;
- TWG (Technical Working Group) meetings to be conducted at the CEC premises;
- Election Code Working Group (ECWG) representatives selected the CEC as the place of their gathering and work;



PUBLIC IMAGE BUILDING (CONT.) ADVISORY BOARD

- > In 2010 Public Advisory Board formed;
- The main goal is to initiative public dialogue on electoral issues;
- The board consists of independent experts, political party members, NGO community and media representatives;
- Public Advisory Board meets once a month; topics of the discussion included: financing Political Parties and Election Campaign; media activities and its involvement in election procedures;



Parliamentary Elections in Latvia – 2 October 2010

Arnis Cimdars Chairman Central Election Commission of Latvia

Main figures

Regular Parliamentary elections in Latvia – the 10th Saeima elections – took place on 2 October 2010. 1,532,319 persons had the right to vote in these elections, 97 percent of which were registered in Latvia and about 3 percent voters – abroad.

Voter turnout in these Parliamentary elections was 63.12 percent that was bigger then in previous elections in 2006.

For these elections 1,013 polling stations were opened, 64 of which were situated abroad, in 37 foreign countries. In comparison with the previous parliamentary elections number of polling stations abroad increased by 11. As well, voters abroad could apply for postal voting. However, we should notice that voters still were very inactive in using this possibility – only 905 voters sent their ballots by post. For voters in Latvia election Law provides for the possibility to vote at the place of voters' residence (i.e. at home, hospitals, prisons etc.). There were 28,027 voters or 1.83 percent who chose to cast their ballots at their place of residence.

The Central Election Commission has registered 13 candidate lists of parties and parties' associations contained 1,234 candidates in total. The number of candidate lists registered (namely, 13) was the less number in the modern history of Latvia, and for the second time voters supported a party, the leader of which was the prime minister at that time.

After the administrative territorial reform of 2009 for the first time district election commissions were not participated in organization of Parliamentary elections. As a result of this reform districts were eliminated in Latvia. So, election administration on local level was carried out by 118 city and municipality election commissions.

Changes to Legislation

Before these elections the Parliament of Latvia has adopted amendments to the Saeima Election Law stipulating that candidates may not stand for election in more than one constituency. The aim of these amendments was to eradicate so called 'locomotive principle', when leaders of a candidate list stand for election in each constituency, are elected in one of them, but in another constituencies candidates unknown for voters gain parliamentary seats.

As well, the Saeima Election Law was amended by adding the voting procedure for imprisoned voters. For these voters voting in Parliamentary elections was organized for the first time in 2010.

Another amendments to the Law stipulated the order in which the Members of the European Parliament or Members of Local Councils should lose their seats in case of election to the National parliament.

Before the Parliamentary election the working time of polling station was changed stating that polling stations on Election Day should be open from 7 a.m. till 8 p.m., thus the time was reduced by two hours.

One more new stipulation concerned the requirement for parties to prepare and submit candidate lists in electronic format using the application software of the Central Election Commission.

Innovations

New steps of the Central Elections Commission for increasing voter competence were connected with an online Internet training course '*The Order of the Saeima elections*' developed before

parliamentary elections of 2010. The aim of this course was to acquaint voters in a simple and interesting way with the organization of polling stations work and counting of voices. The basic target audience of this training course were members of local election commissions and election observers, at the same time any interested person had a possibility to go through this training course. As a result, more then 3,000 people visited this training course online.

To promote people's confidence in elections, in the parliamentary elections of 2010 the Central Election Commission for the first time in history of elections in Latvia has carried out the project *'Voluntary observers in the 10th Saeima elections'*. Within the frames of this project any resident of Latvia from the age of 16 years, who were gone through the online Internet training course for election observers, had a possibility to become the election observer and to observe elections and counting of voices at polling stations. People were very interested in this opportunity. Thus, there were 218 voluntary observers participating this project.

On parliamentary elections of 2010 the Central Election Commission has created and within the frames of a pilot project has tested at several polling stations an electronic program of voices counting. The procedure of voices' counting is rather complicated in Latvia, since voters can vote not only for a party's candidate list but also for or against any specific candidate included into the list. The pilot project confirmed, that application of the electronic program could in the average five times reduce the time necessary for voices counting for one candidate list in comparison with manual counting. We plan to use this electronic programme of voices counting in Local elections of 2013, too.

A Review of the Constitutional Referendum September 5th, 2010 and Parliamentary Elections November 28th, 2010

Dr. Iurie Ciocan Chairman of the Central Electoral Commission Republic of Moldova

In Moldova, the right to vote and the right to be elected are guaranteed by Article 38 of the Constitution. In 2010 Central Electoral Commission of the Republic of Moldova (CEC Moldova) had to organize one constitutional referendum and early Parliamentary elections.

Parliamentary elections in Republic of Moldova are based on fully proportional electoral system which means: a country – a constituency. Recently Moldova switched to the Hamilton formula for seat distribution for Parliament. For local elections D'Hondt seat distribution formula is still in place. President is elected by Parliament by secret vote. The candidate who has obtained a three-fifths vote of the elected deputies wins.

State institution responsible for organizing the elections is the Central Electoral Commission, a permanent independent body.

CEC is composed of nine members with deliberative vote, one of whom is appointed by the President, and eight members by the Parliament in proportion to the number of seats they hold. The members of the Central Electoral Commission can not be members of parties or other social-political organizations.

New members of the Central Electoral Commission began their mandate in February 2011.

In 2009, Moldova went through two consecutive parliamentary elections held on April 5 and July 29.

Opposition parties declared that results of the Parliamentary elections from April 5th, 2009 were rigged but did not present solid proof so the Constitutional Court validated results. The Parliament could not elect president of the country so it was dissolved and new elections announced for July 29th, 2009. New parliament could not elect president of the country either.

A Constitutional Referendum was called for September 5th 2010 in order to adopt direct elections of the President of Republic of Moldova.

Electoral legislation establish a 1/3 turnout threshold for Constitutional Referendum. The biggest parliamentary party has boycott the referendum so the turnout did not exceed 30,29%, less than is was necessary for validation of the referendum.

We have to mention though that the majority of the voters who participated in referendum said "yes" to the presidential direct election.

Since the constitution could not be modified and the Parliament could not elect the president of the country, early parliamentary elections were announced for November 28.

Despite the fact that voters were called to vote for the forth time in last two years they showed a big interest. The turnout was 63,37%. Strong Civic and Voters Information Campaign organized by CEC with the support of international partners contributed to the fact that the turnout was higher then in previous elections.

For the November elections CEC created 35 district electoral councils and 2037 precinct electoral bureaus, including 75 abroad. In 2010 it was for the first time when Moldovan citizens
residing abroad could vote in the polling stations established outside the diplomatic and consular missions.

40 electoral competitors were registered in the electoral race. 20 of them were political parties and 20 - independent candidates. Until the E-day 1 independent candidate withdrew.

Only 4 political parties reached the 4% threshold and got seats in the Parliament of the Republic of Moldova.

We have to mention that in Moldova the electoral campaign starts for each candidate at the date when CEC register them and closes one day before E-Day. For electoral propaganda each registered political party is allowed to spend a maximum of \in 0.50 per voter and each independent candidate – a maximum of \in 0.05 per voter. Once in two weeks competitors submit incomes and expenditures report to the CEC who check and approve them.

For these elections, including the ballot recount procedures, Central Electoral Commission has spent around 1.3 EURO per voter from the state budget.

In total we have 2 662 052 voters included in voters lists. The Constitution guarantees the universal, equal, direct, secret and freely expressed vote.

The electoral legislation also, allows the vote from home through a mobile box for the persons who can't go to the polling station.

Election day procedures were deployed in accordance with the international practices. The results were counted manual at Polling station. Protocols were submitted to the District Electoral Councils. The aggregated results were sent by the DECs to the CEC.

After receiving the protocols, the CEC, during 5 days totalized the nation wide results. The Constitutional Court, which is responsible for validation of results, ordered following the request of some parties the recount of votes. As it was expected by us, the recount did not change the distribution of the seats and the Constitutional Court validated results.

The elections were observed by 3554 national observers and 594 international observers. The international observation missions confirmed the results of the elections and stated that elections met the majority of European standards.

As mentioned earlier in my presentation the CEC organized an extensive information campaign for both Moldovans living inside and outside the country.

Were broadcast several procedural video and radio spots, several motivational spots, were developed leaflets, booklets, posters, billboards and a special hip-hop song.

Finally, I would like to reiterate that one of the priorities of the CEC is to ensure the right to vote to all citizens of Moldova.

I have to thank the international donor organizations, including Council of Europe, for supporting the improvement of the electoral process and ensuring the right to vote for larger categories of the population.

REPUBLIC OF MOLDOVA



CENTRAL ELECTORAL COMMISSION A Review of the Constitutional Referendum September 5th, 2010 and Parliamentary Elections November 28th, 2010

Moldova's electoral system

- Full proportional: a country an electoral circumscription.
- Hamilton seat distribution for Parliament
- D'Hondt seat distribution for locals
- President elected by 3/5th the Parliament by secret vote.
- CEC members appointed by President & Parliament.

Political developments

- Opposition parties declared that results of the Parliamentary elections from April 5th, 2009 were rigged but did not present solid proof so the Constitutional Court validated results
- Parliament could not elect president of the country so it was dissolved and new elections announced for July 29th, 2009
- New parliament could not elect president of the country either.
- Parliament called Constitutional Referendum for September 5th 2010 in order to adopt direct elections of the President of Republic of Moldova.

2010 Constitutional Referendum September 5th

- Turnout threshold for Constitutional Referendum was 1/3 from the voters registered
- 30,29% turnout
- Referendum was declared invalid

Early Parliamentary elections November 28th, 2010

- Turnout threshold for Parliamentary Elections was 1/3 from the voters registered
- Strong Civic & Voter Info, 63,37% (high turnout)

Elections Preparations

- 35 electoral circumscriptions & 2037 precinct electoral bureaus created, including 75 abroad.
- 40 electoral competitors registered 20 political parties and 20 independent candidate 1 independent candidate withdrew
- 4 political parties reached the 4% threshold
- The electoral campaign starts at the CEC registration of candidates & closes one day before E-Day.
- Campaign funding: competitors open a bank account, maximum amount 1 330 000 EUR for political parties (€ 0.50 per voter) and 133 000 EUR for independent candidates (€ 0.05 per voter).
- Competitors submit incomes & expenditures report to CEC.
- 1.3 EUR/voter

Voters

- 2 662 052 voters
- Universal, equal, direct, secret and freely expressed vote
- Vote from home through a mobile box

E-Day

- Manual counting of results at PEBs. Protocols submitted to the DECs, send aggregated results to the CEC
- CEC totalizes the nation wide results
- Constitutional Court ordered the recount of votes following the request of some parties
- The recount did not changed the distribution of the seats and Constitutional Court validated results
- CEC accredited 3 554 national, 594 international observers
- The international election observers' missions confirmed the results of the elections

Civic & Voter Info sample GOTV COMISIA ELECTORALĂ CENTRALĂ Alegerile parlamentare anticipate din 28 noiembrie 2010 otează.lumel Tu poți influența viitorul votează lumei țării noastre! ГОЛОСОВАНИЕ ШАГ 1 SECTIA DE **Магом** Des disa slegerlar parlamentare l ama reparare aman OTARE -3 Chiar affindu-te peste hotare, poți vota! а Молдова otează, Află mai multe detalii pe lume! Oriunde te-ai afla, vino și votează! Car le ve se seconde și recenteral Viitorul țării depinde de tine! Alegerile parlamentare anticipate otează, lume! din 28 noiembrie 2010 Nu fi indiferent! - 0 x 🍘 i = 🕶 -Votează lume) Не будь равнодушным! a de são - 0 2 🛞 L 😝 🕫

Election and Referendum Department

Pavol Kacic Ministry of Interior of the Slovak Republic

Ladies and gentlemen,

Allow me to briefly inform you about election events, which took place in the Slovak Republic in 2010.

After the expiration of a four-year election period, on June 12 2010 were held elections to the National Council of Slovak Republic, our supreme legislative assembly. Elections of candidates of 18 contesting political subjects took place smoothly without disturbing moments and the official results were published the day after Election Day.

Based on the election results seats are allocated according to proportional representation system. The National Council of the Slovak Republic is represented by six successful contesting political entities.

Suffrage exercised less than 60% of voters in person at polling stations on the territory of the republic or by mail from abroad.

During the elections the voters and members of elections bodies signalized the cases of socalled buying votes. None of the contesting political entities challenged the election results, or appealed with a complaint to the Constitutional Court of the Slovak Republic. Only this judicial authority is competent to act in electoral matters in the case of filing a qualified complaint against unconstitutionality or illegality of the elections or against result of elections to the National Council of the Slovak Republic.

Last year, the Slovak Republic held also the referendum. Citizens with the petition asked the President of the Slovak Republic about declaration of a referendum (according to the Constitution at least 350 000 citizens). They demanded that the eligible voters in a referendum should decide on the six issues of public interest.

According to the Constitution of the Slovak Republic the results of a referendum shall be valid if provided an absolute majority of eligible voters have participated and the issue has been decided by an absolute majority of votes. None of these conditions in a referendum held on September 18 2010, was met.

After the expiration of a four-year election period, at the end of November were held elections to the municipalities. Inhabitants of the Slovak Republic i.e. citizens and foreigners with permanent residence permission, voted in the municipalities for deputies of municipal boards and mayors of municipalities.

In these elections the suffrage exercised less then 50% of voters in 2 887 municipalities. Based on the election results mandates are allocated to successful candidates according to majority electoral system with a relative majority. The Constitution Court of the Slovak Republic dealt with complaints lodged against illegality of elections or against election results, and in nine municipalities decided that the mayor or municipal board deputies elections are invalid. In those municipalities will be held new election according to the legislation in force.

Even during these elections were signalized cases of so-called buying votes.

In some municipalities in the Slovak Republic we prepared proceedings for new elections, because mandate in a municipal board was vacated and there is no substitute for this position or

if the position of a mayor of a municipality (of a city) was vacated (for example, resigned from the position, has died, changed permanent residence, was convicted for an intentional crime, deprived of legal capacity, etc.).

The problem of application of active and passive electoral rights, preparation and execution of elections and referendum in the Slovak Republic provides several separate electoral laws. The Slovak Government in its policy statement adopted the task of preparing the draft of Electoral Code. Its aim is to bring transparency, standardization of terminology and new format of some specific provisions of existing electoral standards. For example, a particular element common to all types of elections or referendum, has in the individual electoral laws a different adaptation. This causes to voters and often members of electoral commissions difficulties in their application. On the basis of societal requirements should be taken attention of the solution of above mentioned vote buying to ensure free, democratic and transparent elections.

Thank you for your attention.

United Kingdom Polls 5 May 2011

Peter Wardle Chief Executive UK Electoral Commission





5 May 2011 19 million people voted across the UK

The Electoral Commission

Facts and Figures

- 45.8m electors eligible to vote
 - 440 voting areas
- 40,300 polling stations in United Kingdom
- 112,253 polling station staff in United Kingdom
- 47,395 verification staff in United Kingdom
- 33,559 count staff in United Kingdom



5 May 2011 Elections

- Scottish Parliament 2 million votes (turnout 50%)
- 129 seats (Additional Member System)
- Scottish National Party outright majority (69 seats)
- National Assembly for Wales 950,000 votes (turnout 42.2%)
- 60 seats (Additional Member System)
- Labour largest party (30 seats)
- Northern Ireland Assembly 660,000 votes (turnout 54.5%)
- 108 seats (Single Transferable Vote)
- Democratic Unionist Party & Sinn Féin power-sharing
- Northern Ireland 582 councillors elected to 26 local councils
- England 9,030 councillors elected in 279 local councils

The Electoral Commission

5 May 2011 Referendum Should the UK change from 'first past the post' (*simple plurality*) to 'alternative vote' (*preferential voting*) for electing MPs to the House of Commons?

19,165,730 votes cast (turnout 42%) – Yes: 6,152,607 (32.1%) – No: 13,013,123 (67.9%)

Result: No



Key Points

- · Complex mix of polls on the same date
- First UK-wide referendum since 1975
- A referendum is not simply a 'big election'
- UK Electoral Commission managed conduct of the referendum
- Lessons for the future legislation; election administration

Presentation of La Union Interamericana de Organismos Electorales (UNIORE) activities

Manuel Gonzalez Oropeza, Electoral Justice, Federal Electoral Tribunal of Mexico, Substitute Member of the Venice Commission

Thank you Mr. Chairman. Good morning ladies and gentlemen:

I would like to thank the European Commission for Democracy through Law and the Federal Ministry for the Interior of the Republic of Austria for this opportunity to introduce the Inter-American Union of Electoral Organizations. Special thanks to Mr. Gianni Buquicchio and the Secretariat of the Venice Commission for making it possible.

On the 22nd of November 1991, a year after the establishment of the Venice Commission, the Inter-American Union of Electoral Organizations, better know as UNIORE, was constituted in a Joint Summit of the Association of Electoral Bodies of Central America and the Caribbean, known as the Tikal Protocol, and the Association of Electoral Bodies of South America, known as the Quito Protocol. Later on, Electoral Bodies from the United States, Canada and Mexico joined the Inter-American Union of Electoral Organization so that it reached full-continental scale.

The Union is a non-governmental institution with non-mandatory decisions that may be used as recommendations or guidelines by the requesting electoral bodies. Currently, UNIORE consists of 29 electoral bodies from 24 different countries. Some countries, such as Mexico, have two electoral institutions as members, an administrative and a judicial one. The administrative one is represented by the Federal Electoral Institute of Mexico, whose President is also attending this meeting, and the judicial one by the Federal Electoral Supreme Court, which I have the honor to represent today.

The main goal of the Inter-American Union of Electoral Organizations is to help the democratic consolidation process of the region. To that purpose, UNIORE focuses on perfecting the electoral systems by setting forth a mechanism to exchange knowledge and experiences, unlike the Conference of the EMBs. This reaffirms the unwavering faith of the members of the Union in democracy as the only system that allows human development in an environment of complete freedom where elections are the primary element.

The members of the Union meet every two years to discuss in their Plenary Session to choose mechanisms of cooperation in order to improve the electoral systems in the region. This Plenary Session represents the Governing Body of UNIORE formed by representatives of its members and chaired by the Electoral Organization which had been chosen at the previous Session. Projects and programs are enacted between the Sessions by the Secretariat through the Center for Electoral Promotion and Assistance, better known as CAPEL. CAPEL is a specialized program of the Inter-American Institute for Human Rights (IIDH) offering technical electoral assistance and promotion.

To date there have been 10 Sessions to cover a broad range of issues and topics such as: Political, Electoral and Party Systems, Constitutional Engineering, Electoral Reform, Democratic Order and Financing of Political Parties, among others.

I am glad to let you know that at the last Session in Merida, Mexico, I had the opportunity as Alternate Member to talk about the Venice Commission along with Dr. Thomas Markert who delivered a highly interesting and substantive presentation about the tasks of the Commission, its cooperation with other countries and institutions and its promotion to set up international standards in electoral matters. The fact that the 10th Plenary Session was held in Mexico means that from November 2010 to November 2012 the electoral bodies of Mexico have gladly been chairing the UNIORE Governing Body. This is a special honor considering that we will be celebrating the 20th Anniversary of UNIORE in an extraordinary meeting to be held in Mexico during the second semester of this year and we would like to extend joyfully an invitation to all of you for this upcoming event.

Additionally, this extraordinary Session will probably be the opportunity to bring forth an Ethics Code regarding Financing of Political Parties.

There will also be in this introspective meeting the opportunity for discussion how to rearrange the agenda of UNIORE for the new and upcoming challenges in the democratic consolidation process of the region.

As a new participant in the Venice Commission it is clear to me that there are many opportunities for collaboration between the Governing Body of the EMBs and UNIORE since we share common goals and look for improvement of our organizations. The electoral bodies of both, America and Europe, have the same interests in different issues, such as, the role of technology and social media in elections, the on-going efforts for smoother and more transparent elections and the facing of the challenges of fraud prevention and detection which are going to be discussed at this Session.

In view of these common grounds, it is clear to me that there are many opportunities to join efforts in order to let experience(s) and knowledge cross continents. This collaboration could start with a Joint Summit of the Election Management Bodies and UNIORE as forum to exchange points of view and perspectives on how to increase collaboration in order to strengthen democratic consolidation through a better understanding and performance of elections. New and old democracies face similar challenges so that we must take the opportunity to join forces in order to achieve our respective targets strengthening democracy on both sides of the Atlantic.

Other collaboration efforts may be joined in a common practice of UNIORE and representatives from the EMBs, such as an international election observing visitor program for electoral support in upcoming elections. That would mean that officers from EMBs participate in electoral processes throughout America and vice versa representatives of UNIORE visit elections in European countries.

Thank you very much for this opportunity, and I hope I have enticed you to collaborate on bringing the Conference of the EMBs closer to UNIORE.

ACE Presentation

Martin Hallberg, Network Facilitator, ACE secretariat





Outline

1) What is ACE?

- ACE online portal, partnership and structure
- ACE a multifaceted tool

2) The Practitioners Network (PN)

- Who are the members?
- How to obtain customized information?
- Other functions

3) Get connected!



1) What is ACE?

The ACE project is an online knowledge repository that provides Comprehensive information on electoral processes and electoral assistance. The ACE network promotes credible, and transparent electoral processes with emphasis on sustainability, professionalism and trust in the electoral process.

Some of the most frequent users of ACE include, *inter alia*, researchers and students; EMBs; CSOs; political parties; governments and international organizations. ACE is free of charge, and anyone interested in elections is encouraged to visit the website.







2) The Practitioners' Network (PN)

Answers to some questions are not available in textbooks or dictionaries. Therefore ACE relays international experiences through the Practitioners' Network (PN)

	Tigran Karapetyan Read more	Languages English Russian		
	KASIWA MULIRO MUFUYA Hubert je suis nee en 1968 , Economiste de formation et chargee de education civique. Read more	Nationality Congo (Kinshasa), Democratic Republic of the	Thematic Areas of Expertise Civic and Voter Education Civil Society and Elections Electoral Dispute	< 11 X
	Emmanuel Ludovick Kawishe I am an employee of the National Electoral Commission, I am a full Accredited BRIDGE Facilitator, accredited by the International IDEA since 2008 in South Africa. I like to join ACE Practitioner's Network in order to share with other practioners expe [] Read more	Nationality Tanzania, United Republic of	Thematic Areas of Expertise Boundary Delimitation Civic and Voter Education Electoral Dispute	< 10 S
6-	KHALID WAHEED I am Khalid Waheed working as Deputy Election Commissioner under Election Commission Of Pakistan. I did my Master's in Political Science from university of Peshawar,Pakistan.I work as Registration officer for the purpose of preparing/updating Voter's [] Read more	Nationality Pakistan	Thematic Areas of Expertise Boundary Delimitation Civic and Voter Education Civil Society and	() ()



PROJECT | PROJECT | PROJECT |

How to obtain customized information?

- 1. User asks a question through email or site – i.e: "how to count ballots in block voting";
- 2. The ACE secretariat posts the question to all experts, who provide their experiences and input;
- 3. The ACE secretariat then consolidates the materials, search for additional information, and posts the finished reply on the site and sends it back to the user.

Consolidated Replies	Contributions
Methods of Promoting Internal Democracy in Political Parties	8
Electoral districts for greater accountability	9
Manually counting ballots in Block Vote systems	6
Sudan: Voter Registration of nomad tribes without a permanent address	9
Codes of conduct for the electoral process	5
Serial numbers on ballots	10
Criteria for selection of Electoral Commissioners	6
Ballot paper design for multiple elections	8
Burma (Myanmar) 2010 Elections: Restrictions for candidate registration	7
UNDP guidelines on prevention of election violence	9
Definition of mental illness in electoral law	5
EMB responsibility to oversee and administer internal political party elections	5
Voting by homeless people	4
Identification of voters wearing a veil	8
Consolidated Response on Gender Quotas in African Countries	1
Family and proxy voting in Macedonia	7
Conduct during Elections for Civil Servants and Ministers	1
Vetting electoral candidates	10
"After-the-event" assessment of elections	10
Inappropriate Electoral Systems	6
Floor-crossing in East Timor	
Voting facilities for prisoners	3
Retention of election materials	4
Absentee voting facilities in Bhutan	9
The use of a Photo Voter Roll	10

Other functions

Questions to answer	Announcements
 Regional election observation networks Apr 15, 2011 11:47 AM Paramount chieftaincy as a system of local government Apr 10, 2011 07:12 PM Cases of interference with the work of an independent EMB and resulting actions Mar 30, 2011 04:54 PM More questions 	 Call for papers - Journal of African Elections (JAE) Apr 08, 2011 Master of Arts in International Electoral Policy and Practice Mar 20, 2011 Re: Crisis Group report on Nigeria's April elections Mar 13, 2011 More announcements
Join a discussion	Vacancies
 Diffusion of Democratic Norms and Civic Electoral Engagement Apr 27, 2011 12:16 PM Why Civic Electoral Literacy is of crucial important when politicians play loose in civic electoraltermonology Mar 28, 2011 02:24 AM Is Egyptian civil society ready for a new election? Mar 04, 2011 05:17 AM More discussions 	 Country Director-Sudan (IFES) May 02, 2011 Capacity Building Manager- Afghanistan (IFES) Apr 28, 2011 Country Director-Nigeria (IFES) Apr 28, 2011 More vacancies
Working Groups	Events
Elections and Conflict Working GroupACE Partners Working Group	More events

ACCE PROPECT | PROPERTY



3) Get connected – Visit us at the booth or online: aceproject.org facilitators@aceproject.org

"I am an active participant in the political empowerment of women in Yemen, and these materials will help me a lot in my job. Thank you very much for your support." "I was working on a project in Macedonia and there was no information available to enable me attain the goal of evaluating the project. It was under those circumstances that I came across ACE. I was amazed to find answers I was searching for."

> Shahid Iqbal, Assistant Election Commissioner in Pakistan

Web User

Commissioner Donetta Davidson Election Assistance Commission United States



United States Election Assistance Commission Commissioner Donetta Davidson

Council of Europe Conference May 12, 2011

www.eac.gov



U.S. Elections

• Decentralized system

- Approximately 7,000 local election jurisdictions serve 177+ million voters
- Most laws and regulations governing elections have come from the states
- Federal election laws include
 - National Voter Registration Act
 - Uniformed and Overseas Citizens Absentee Voting Act
 - The Military and Overseas Citizens Voter Empowerment Act
 - Help America Vote Act



 First time federal government funded election reform

- More than \$3 billion provided to states

- Required states to implement the following for federal elections
 - Provisional voting
 - Administrative complaint procedures
 - Voting systems that meet basic requirements, but states decide which voting systems to use
 - Statewide voter registration databases
- Created the EAC



The EAC

- HAVA Provided more than \$3 billion to the states to improve the administration of federal elections
- HAVA created the Election Assistance Commission
 - $\odot\,$ Bipartisan agency created to help improve the administration of elections
 - o 4 Commissioners (2D's & 2R's)
 - $\circ\,$ Appointed by the President and approved by the Senate
- Our middle name is "Assistance"

Assistance Includes

Gathering data and providing information

- Administering the national clearinghouse on elections
- Testing and certifying voting equipment
 - Establish voluntary standards for voting equipment
- Providing resources for election officials throughout the nation
- Developing a uniform voter registration form for use across the U.S.



The Nation's Clearinghouse on Elections

• EAC.gov

- Training and election management resources and materials
- Voting machine test reports & plans
- Voting system reports from states
- Videos about student voters, certification, setting up a polling place
- Resources for military and overseas voters
- Resources for voters
- Collection of social media sites for election officials throughout the nation
- The most comprehensive data about where, when and how Americans vote



Voting System Testing & Certification

EAC Certified Voting Systems

This interactive map shows where federally certified voting systems are being used during the 2010 federal election. It allows users to quickly access key information about EAC-certified voting systems, including the county in which they are used, test reports issued during the certification process and any advisory alerts. The map also depicts state requirements for voting system certification.

For questions about this map, including how to use it, visit our Voting Systems Map FAQ.



Testing & Certification

 Before July 2006, voting systems were not tested by federal government

- National Association of State Election Directors (NASED) stopped testing voting equipment in July 2006
- Participation by states is voluntary
- Program information available at <u>www.eac.gov</u>
 - Registered manufacturers
 - o Voting systems under test
 - Certified voting systems
 - o Test plans/Test Reports
 - System Advisory Notices
 - Anomaly reports from election officials (voluntary)
 - Anomaly reports from manufacturers in EAC's program (mandatory)



Election Management Guidelines

- Goal of the EMG is to provide a comprehensive set of election management guidelines, consolidated into one document, to assist State and local election officials.
- These Guidelines do not endorse one method of election administration over another and they are not intended as "one size fit all."
- EMG chapters are taken from best practices from your peers.
- These Guidelines are solely designed to serve as a source of information for election officials, and not as requirements they must abide by.



Quick Start Management Guides

- Designed to highlight and summarize the information contained in the chapters of the EMG condensed in a usable and readable format.
- Cover topics such as:
 - \odot Uniformed and Overseas Voters
 - o Developing an Audit Trail
 - Polling Places and Vote Centers
 - Contingency and Disaster Planning





Technology's Role In Elections

- Registration
- Verification
- Information





Military & Overseas Voters

 Opened the door to technology solutions in elections

- Uniformed and Overseas Citizens Absentee Voting Act
- Military and Overseas Citizens
 Empowerment Act





Impact on Election Officials

 Have to keep up with constant media cycle

- Have to immediately address rumors & correct misinformation
- They've embraced new technology

18



How Voters Receive News

 Half of Americans surveyed get their news from people around them

- Some 80% of American adults have cell phones, and 37% of them go online from their phones
- 75% of online news consumers get news forwarded through email or posts on social networking sites

* Source: Pew Research Center



Modern Communication

 Provide benefits to voters and improve customer service

- The Internet
- Social media





Final results - 51st Assembly Dist Special Primary Bradford (D) 7,580 (52,89%); Gray (D) 2,794 (19.5%); Coffin 2,418 (16.87%); No runoff.

Twitter

- Los Angeles County is the largest election jurisdiction in the US
- Using Twitter to deliver updates provides immediate for voters and the media
- Allows election officials to reach a wide audience living in a large geographic area
- No relying on others to deliver information
- Excellent way to manage rapidly changing conditions, like weather interruptions 2





Face book

Excellent way to reach younger and first time voters



YouTube

Helps explain technical subjects like voting system certification

24



Creates more work

- Monitoring feedback
- Older voters may not get the information
- A different sense of humor
- Most likely will have to rely on younger staff
 - Limited experience
 - Require more supervision



Modern Communication Challenges

Misinformation spreads quickly

- Latest technology not always available due to budget constraints
- The online world can be scary!



The Benefits

 Another way to get accurate information out fast

- Great for rapidly changing situations or last minute announcements
- If you have the hardware and a good Internet connection, it's practically free
- You'll reach a younger audience



Election Officials Must Remember...

When using social media

- It's normal to be scared, confused and excited
- Be ready to fail big and small
- Embrace criticism
- Things may get weird!
- Voters will have a credible resource to get information

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EAC Provides Assistance

Workshops and public meetings

- Election management materials
 - Communicating with the Public
- The National Clearinghouse on Elections
 - Technology solutions
 - Links to social media sites
 - Videos



Conclusion

In 2011, several candidates announced they were running for president on the Internet

- Videos
- Face book announcements
- Even though technology has ushered in changes in elections, some things will never change

30

What's Changed Since 2000?

• The federal government tests and certifies voting equipment

- Voter rolls are cleaner, more current
- No more punch cards or lever machines
- Elections becoming a recognized profession
- More technology
- More auditing capability
- Acceptance and distribution of best practices in elections
- Public awareness and media scrutiny about the election process, not just the election results


What Hasn't Changed Since 2000

- Elections are about people; they will always be involved in the process
- Local officials are the ones who make elections work
- Poll workers are crucial
- Close contests invite more scrutiny
- Pre-election testing, security procedures and training are just as important as ever

Social media and the secrecy of the vote the German perspective

Christiane Egert-Wienss Federal Statistical Office/Office of the Federal Returning Officer













How do modern media influence the electorate?

Prof. Dr. Jur Herdis Thorgeirsdottir, Member of the Venice Commission

The role of modern technology and social media in elections:

AN OPEN, SAFE AND ACCESSIBLE INTERNET

FOCUS: the role of the Internet for the exercise of fundamental rights

The focus of this discussion is on the role of the Internet for the exercise of fundamental rights and freedoms and democracy and why the Internet must be kept safe, open and accessible to all citizens. This is not least relevant in relation to elections where the public needs to be informed in order to exercise their vote in a rational manner.

Issues and topics related to Internet regulation or governance are numerous; they are technical, legal, economic, social and ethical and they affect more than hundreds of million users in the world.

The Council of Europe Member States have recognized that the Internet has public service value and that it is also a critical infrastructure for national security.⁶ As the Internet is a common global resource there are many at present concerned with Internet governance principles, i.e. the protection and promotion of the Internet's universality, integrity and openness, on the protection of freedom of expression and the right to privacy.

In an era of media based on the Internet, optimists say that censorship has become virtually impossible. Non-democratic governments, corrupt practices and violations of political rights cannot be kept in the darkness of oblivion anymore.⁷

Recent months have shown to the world the power of the Internet and the social media. The recent case of Wikileaks in 2010 and the developments in Tunisia and Egypt at the beginning of 2011 demonstrate the direct link between the exercise of fundamental rights, freedom of expression, democracy and access to the Internet as well as the need to have tools in place to preserve the Internet.⁸

The Secretary General of the Council of Europe and the President of PEN International said in a joint statement on the International Freedom of the Press Day on 3 May that: It has never been easier to exercise our rights to expression and information, but it has also never been easier to interfere with them.⁹ There is news of various governments around the world that are extending their repression to the Internet. The US State Department's annual human rights report maintains that countries are "spending more time, money and attention in efforts to curtail access to these new communications outlets." More than 40 governments are now blocking their citizens' access to the Internet, and the firewalls, regulatory restrictions and technologies are all "designed to repress speech and infringe on the

⁶

⁷ Special rapporteur on media freedom of the Parliamentary Assembly of the Council of Europe on 3 May 2011.
⁸ Ad Hoc Advisory Group on Cross-Border Internet (MC-S-CI), 3rd meeting, 21 and 22 February 2011in Strasbourg http://www.coe.int/t/dghl/standardsetting/media/MC-S-CI/MC-S-CI/2011/011_fr.asp#TopOfPage

⁹ http://www.coe.int/t/dghl/standardsetting/media/Doc/119%20JP%20Speaking%20notes%20EP%20Hearing%20

<u>Access%20to%20internet.pdf</u>

personal privacy of those who use these rapidly evolving technologies."¹⁰ Human rights activists and independent bloggers have found their emails hacked or their computers infected with spyware that reported back on their every keystroke. Digital activists have been tortured so they would reveal their passwords and implicate their colleagues."¹¹

The European Court of Human Rights is presently examining the application against internet censorship filed by Turkish nationals. ¹² The Court has asked Turkish authorities to explain their use of the country's law to ban websites, responding to applications by two complainants who say the bans violate their right to freedom of expression under Article 10 of the European Convention on Human Rights. There are cases also cases pending regarding sanctions against bloggers in Azerbaijan who uploaded a satirical video featuring an interview with a violin-playing donkey onto Youtube. In response they were beaten up and then arrested and imprisoned for affray.¹³

One need hardly ask <u>why</u> many governments/power holders fear the potential of the Internet as a democratic force? The real fear is not only that the internet is changing how people think; it is that the Internet is eroding traditional authority.

The Commissioner for Human Rights recently revealed that "when meeting with journalists and civil society during [my] travels, they often point out that in situations where no pluralism exists on television, in the radio and newspapers, the public relies more and more on online media.¹⁴ This is why today policy makers are debating how to keep the internet "safe, open and accessible to all citizens".¹⁵

The internet as a universal public sphere entails new possibilities for direct democracy, where people approve or reject legislative acts through referendum;¹⁶ and deliberative democracy exploring the enormous capacity of the Internet to distribute information, sustain far-flung networks and make all kinds of expertise accessible to ordinary people to connect citizens to policy makers.

The new social media enables people to form an opinion in politics in a totally different manner than in days of newspapers and local broadcasting. When the traditional media prevailed it was mainly the privileged could access that forum when they had need for it – in order to access the public. To take an historic example – Churchill used the radio for his great speeches in the 1940s, John F. Kennedy won the Presidential elections in the US with his use of television in 1960. The labour leader Tony Blair was in the mid 1990s promised the support of media mogul Rubert Murdoch's tabloid the Sun – this support was given to thwart the adoption of laws that would curb media ownership.¹⁷ (When Barak Obama earlier this month announced his re-election campaign, he did so without public appearance on an

¹⁰http://www.whsv.com/nationalap/headlines/Report_Notes_Role_of_Internet_in_Recent_Revolutions_11950549 4.html

¹¹ Hillary Clinton, Secretary of State <u>http://abcnews.go.com/US/wireStory?id=13328749</u>

¹² Ahmet Yıldırım and Yaman Akdeniz.

¹³ Hajizade and Abdullayev v. Azerbaijan, Appl. No. 4854/10, communicated on 7 April 2010. <u>http://www.mediadefence.org/project/mldi-and-partners-ask-permission-intervene-azerbaijan-bloggers-case-</u> <u>european-court</u>

¹⁴ Thomas Hammerberg – presentation Vienna 7-8 July 2011: <u>https://wcd.coe.int/wcd/ViewDoc.jsp?id=1811433</u> ¹⁵ Cf.,

Neelie Kroes Vice-President of the European Commission responsible for the Digital Agenda Internet essentials OECD High Level Meeting on the Internet Economy Paris, 28 June 2011

¹⁶http://www.basiclaw.net/Principles/Direct%20democracy.htm

¹⁷ H. Thorgeirsdóttir, Journalism Worthy of the Name: Freedom within the Press and the Affirmative Side of Article 10 of the European Convention on Human Rights, Brill 2005.

online video. In 2008 Obama used social media for connecting grass-roots supporters in vital early stages.¹⁸)

The Internet is distinct from traditional media as it is accessible to enable anyone, even private individuals to publish or access information with little or no cost compared with traditional media which generally require significant resources to publish information. The Internet is the forum where ordinary citizens can participate and deliberate in the political debate in the wide sense with yet unforeseen consequences for the politics everywhere.

The internet is fast becoming a universal public sphere with slightly fewer than 30% of the world's population having access to the Internet.¹⁹ The Internet is still growing at a good rate.

Although the potential of the internet is enormous, social inequalities still limit the impact of new technologies. The digital divide - unequal access to new technologies because of cultural and economic factors is still an undeniable obstacle to regular use of the Internet. There is, as the Venice Commission emphasized in its guidelines on media monitoring during elections still a wide debate about the degree of freedom the Internet should enjoy and the extent to which regulations can realistically be applied to everyone, stating that the World Wide Web is a pluralistic and unlimited media environment accessible to everyone.20

In that sense the Internet is in fact a realization of freedom of information which at the outset of the present international regime of human rights was regarded as the touchstone of all other human rights - as stated at the very first session of the United Nations General Assembly in 1946. The Internet provides an unprecedented opportunity for participatory democracy - as a forum without boundaries - opening up the world.

It is therefore not surprising that the Internet is of legitimate interest of authorities with its dynamic input in the public sphere. The challenge it poses for public policy makers, nationally or regionally is the fact that the Internet operates globally, across borders.

The Venice Commission in its guidelines on monitoring the media during elections (2009) emphasizes the need to assess the functioning of the media during elections as the media provide an invaluable forum for public debate by informing citizens about political issues.²¹

The Venice Commission has defined the media as referring to all form of communication to the general public which involve a minimum level of defined editorial responsibility over the content itself or its presentation irrespective of the technology used for delivery. This includes newspapers, periodicals, radio, television and online equivalents using new communication services.²² The difference between the online media and the social media is that the latter does not involve editorial responsibility. Social media are distinct from traditional media as they are accessible to enable anyone, even private individuals to publish or access information with little or no cost compared with traditional media which generally require significant resources to publish information. The term citizen media has been used to refer to forms of content produced by private citizens who are otherwise not professional journalists - yet many contribute on regular basis to the public discourse.

¹⁸ <u>http://www.physorg.com/news/2011-04-internet-electorate.html</u>

 ¹⁹ http://www.newsweek.com/2011/01/26/revolution-by-internet.html
 ²⁰ CDL-AD(2009)031, para 33.

²¹ CDL-AD(2009)031 based on the joint OSCE/ODIHR and Council of Europe's guidelines on Media Analysis During Election Observation Missions, adopted by the Venice Commission of the Council of Europe in 2005 (CDL-AD(2005)32).

² CDL-AD(2007)022.

The dark side of the social media – threats to privacy and safety

The social media has provided a platform in a sense like the pamphlet did for the individuals of the American Revolution. The pamphlets were a one-man show where one had freedom of expression unlike the freedom one has in a newspaper or periodical– and like with today's bloggers they had peculiar virtues as mediums of communication as explained in Bernard Bailyn's book *The Ideological Origin of the American Revolution* – "the pamphlets included all sorts of writings, treatises on political theory, essays on history, political arguments, sermons, correspondence, poems – and they display all sorts of literary devices. But for all their variety, they are to an unusual degree, explanatory. They reveal not merely positions taken but the reasons why positions were taken."²³

In the book The Net Delusion: The Dark Side of Internet Freedom, Evgeny Morozoy aims to prick the bubble of hyper-optimism that surrounds debates about the Internet's role in advancing freedom of information and expression or civic causes. Morozoy claims that authoritarian regimes are using the social media to spy on their citizens and that the average users are potentially putting themselves at risk every time they disclose an affiliation, post about a trip or share a photo album. Morozoy cites the example of a Belarusian activist whose real life-activities (including travel and organizational connections) were picked up by the KGB from his online presence.

To argue that the internet is not an inherently democratic force is simply to point out that it has the potential both to oppress and sustain corruption and abuse of power and to enlighten and liberate, which of these sides dominates depends on the social and political context in which it is used rather than on some internal "logic" that derives from its architecture or its culture.²⁴

There are **potential dangers** of using such tools as Twitter, Facebook and even Google – the Facebook accounts of dissidents have been hacked in areas of unrest and revolt and they arrested. Imagine for a moment that Egypt's protestors had not been successful in ousting Mubarak, the countless photos, videos and tweets posted by Egyptians, many with identifiable information, would remain online for security service to pore through.²⁵

The recently adopted **EU Data Retention Directive**,²⁶ requiring network operators to retain details of phone calls and e-mail messages has been contested by politicians and journalists alike as posing a threat to privacy rights of ordinary citizens as well as the rights of journalists and the press. ²⁷ Violations of privacy arising out of the data held by Internet Service Providers may be contested under Article 8 of the European Convention on Human Rights – and the EU may not adopt an instrument on data retention that does not comply with that provision.

Germany's highest court, the Federal Constitutional Court rejected domestic law that went into effect in January 2010 stemming from the EU directive giving the federal government broad access to stored telephone and Internet data – including email addresses for a six month period. The Court ruled that data may be saved, but authorities will only be allowed to

²³ Bernard Bailyn, The Ideological Origins of the American Revolution,

²⁴ Evgeny M The Net Delusion http://www.economist.com/debate/days/view/662

²⁵ http://english.aljazeera.net/indepth/opinion/2011/03/20113713105997823.html

²⁶ Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (*Official Journal L 105 , 13/04/2006 P. 0054 – 0063*)

²⁷EFJ homepage and

http://www.computerworld.com/s/article/9133566/Sweden_challenges_EU_data_retention_directive

access under extreme circumstances, and with a warrant. Accessing the data will be allowed only when other avenues of investigation are blocked or helpless.²⁸

Facebook is already facing increasing criticism over privacy issues. The Article 29 Working Party, the group of the European data protection has criticized Facebook for putting users' privacy at risk with unacceptable changes to its services (default settings).²⁹ There are rising worries about how the social networking sites use information they collect about user's personal habits for behavioral advertising (using Internet history to better market products).³⁰

Many using Facebook know that things posted online can will be used against them at some point. People have been fired for the party pictures, unthoughtful jokes and uncareful remarks.

The European Union Commissioner of Justice and Human Rights stated recently that social networking sites such as Facebook, or search engines such as Google, may face court action if they fail to obey planned EU data privacy rules.³¹ The EU is in is the process of revamping its data privacy rules dating back to 1995 so as to encompass social networks, online data aggregators. Commissioner Reding wants to force companies to allow Internet users to withdraw any data held by the Web sites, calling it the "right to be forgotten," as well as make the firms provide more information on what data is collected and for what purpose.³²

At present a case is pending before a Spanish court³³ against Google Inc., where Spain's Data Protection Agency has ordered the search engine giant to remove links to material on about 90 individuals. The information was published years ago. Google is 15 years old and more and more people are seeing things on the Internet that they do not want to be there.³⁴

Council of Europe Internet policy on basis of right to privacy

All Council of Europe member states have undertaken to secure within their jurisdiction the rights and freedoms set out in the European Convention on Human Rights.

The Council of Europe is one of the most influential inter-governmental organizations in shaping Internet Policy on the basis of the right to privacy as guaranteed under Article 8 of the European Convention on Human Rights. The Council of Europe adopted the landmark 1981 Privacy Convention, the first legally binding privacy treaty. ³⁵ The Committee of Ministers recommended to Member States in 1999 for the protection of privacy on the Internet Guidelines for the protection of individuals with regard to the collection and processing of personal data on information highways.³⁶ In 2003 the Committee of Ministers

²⁸ http://www.spiegel.de/international/germany/0,1518,542398,00.html

²⁹http://www.ft.com/cms/s/2/762b2366-5dff-11df-8153-00144feab49a.html#axz1LvyKZkBS

http://ec.europa.eu/justice/policies/privacy/docs/wpdocs/tasks-art-29_en.pdf

³⁰ The EU Commission has declared its intention to create "a clear, modern set of rules" guaranteeing a high level of personal data protection and privacy by reforming the 1995 EU Data Protection Directive. EU Commission under its new powers under the Lisbon Treaty and the legal basis given to the Charter of Fundamental Rights. "Europeans' Privacy will be big challenge in next decade" says EU Commissioner Viviane Reding, IP/10/63. Brussels 28 January 2010

³¹ <u>http://www.itmatters.com.ph/inside.php?id=643&article_type=news</u>

³² New EU privacy rules are still way away.

³³ <u>http://www.scpr.org/news/2011/04/20/internet-right-be-forgotten-debate-hits-spain/</u>

³⁴ http://www.huffingtonpost.com/2011/04/21/right-to-be-forgotten-google-spain_n_851891.html

³⁵ Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, Strasbourg 28.1.1981.

³⁶ Committee of Ministers Recommendation No. R (99)5, adopted by the Committee of Ministers 23 February 1999 at the 660th meeting of the Ministers' Deputies.

adopted a Declaration upholding anonymity on the Internet as a necessary component of freedom of expression and a bulwark against government surveillance.³⁷

The Committee of Ministers' 2010 declaration on the management of the Internet protocol address resources in the public interest states:³⁸ To the extent that information on users' activities and communications, as well as traffic data, amount to personal data,³⁹ they should be treated and used in full compliance with the requirements of the right to respect for private life guaranteed under Article 8 of the Convention and the related case law of the European Court of Human Rights. The principles enshrined in the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) are also relevant in this connection.

As it is now the users of the social media have no or very limited control of the use and disclosure of their data as evident from the ongoing court cases against Google Inc., Furthermore, users do not have it within their control to leave a social network service and to permanently eliminate data or their entire account from the social network service.⁴⁰

One of the most basic ways that users can protect their privacy is by leaving a social network service that does not sufficiently protect it. In accordance with the fundamental rights to freedom of expression as well as the right to privacy under the European Convention on Human Rights a user should have the right to delete data or his/her entire account from a social network service. In this respect it is not enough for a service to disable access to date while continuing to store or use it. It should be permanently eliminated from the service's servers.

Facebook's Terms of Service requires Facebook users to provide their real names and information which may create serious risks for dissidents and human rights workers who must choose between using their real names, which can lead to government reprisals, and using a pseudonym which leaves their accounts vulnerable to deletion for Terms of Service violations.41

There is increased emphasis on the need to be able to have an anonymous profile on social networking services although that claim also entails controversial elements. It has furthermore been suggested that the Council of Europe take into account proposals which stress that individuals have the right "[t]o see readily who is entitled to access any particular piece of information about themselves," (...) including "government officials, websites, applications, advertisers and advertising networks and services." Moreover, "[w]henever possible, a social network service should give users notice when the government or a private

³⁷ Declaration adopted by the Committee of Ministers on 28 May 2003 at the 840th meeting of the Ministers' Deputies and

Declaration adopted by the Committee of Ministers

on 28 May 2003 at the 840th meeting

of the Ministers' Deputies

and explanatory not ³⁸ Adopted by the Committee of Ministers on 29 September 2010 at the 1094th meeting of the Ministers' Deputities.

According to Article 2 of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) "personal data" means any information relating to an identified or identifiable individual.

⁴⁰ https://www.eff.org/deeplinks/2010/05/bill-privacy-rights-social-network-users

⁴¹ https://www.eff.org/deeplinks/2011/05/eff-council-europe-live-your-internet-rights

party uses legal or administrative processes to seek information about them, so that users have a meaningful opportunity to respond."⁴²

Present challenges and threats to openness and equality

The Internet– at present – is not owned or funded by any one institution, organization or government. It is a self-sustaining widespread information infrastructure accessible to hundreds of millions of people world-wide.⁴³

The Internet has so far been a **level playing field** that allowed all content to move at the same speed.⁴⁴ The principle that telecommunications companies and internet service providers treat all web traffic running over their broadband equally is called network neutrality (**net neutrality**).

Net neutrality is defined as the freedom to access any kind of content on the Web without the fear of restrictions, limits, or tiered levels of admission. Net neutrality means furthermore that there are no restrictions on downloads or uploads, and no restrictions on communication methods (email, chat, IM, etc.) It also means that access will not be blocked, slowed down, or sped up depending on where that access is based or who owns the access point(s).

A small number of governing boards work to establish common standards, few rules or single organization bind the Internet. Essentially the Internet is in most part an ungoverned global network of networks, a global public good enabling people to have access to information, to connect and to communicate, as well as to share ideas and knowledge globally.

At present there is fear that the Internet is closing. Internet Service Providers (telecommunications corporations) claim that they need to be able to control the growing internet traffic due to the growing burden on the infrastructure of the net. There is growing anxiety that this will mark the end of the Internet as a tool for democratic deliberation as the result could be a two-speed internet.⁴⁵ A tiered system will favour large, well –established content providers who can afford to pay a premium to the detriment of others.

The issue of net neutrality - where the future of the Internet appears threatened by demands from telecom operators for increased control over the Internet *is one of the most hotly debated topics regarding the internet today on both sides of the Atlantic; on the forum of the Council of Europe and the European Union.*

At present many are reflecting on high-level principles for the Internet on the European Agenda to set a framework underpinning basic principles like openness, transparency, non-discrimination, respect for the rule of law and human rights as well as fair competition.⁴⁶

The Secretary General of the Council of Europe has identified human rights in the information society as priority area for the Organisation's activities in 2012 and 2013⁴⁷

⁴² See Electronic Frontier Foundation's Bill of Rights for Social Network users: https://www.eff.org/deeplinks/2010/05/bill-privacy-rights-social-network-users

¹³ http://wiki.answers.com/Q/What_is_some_information_about_the_invention_of_the_internet

⁴⁴ Under the mere conduit principle of EU E-Commerce Regulations of 2002 network operators have no legal liability for the consequences of traffic delivered via their network.

⁴⁵ <u>http://www.bbc.co.uk/news/technology-13126777</u>

⁴⁶ Dauville G8 Summit, May 2011.

⁴⁷http://www.coe.int/t/dghl/standardsetting/media/MC-S-CI/MC-S-

CI%20(2011)011%203rd%20Meeting%20Report.asp#TopOfPage Para 2.

The EU has been following closely the progress in the United States where the Federal Communication Commission (FCC) has adopted the principle of net neutrality as part of its policy. ⁴⁸ It is evident from the words of European Union Commissioner Kroes that the Commission for Digital Agenda is not ready to take the tough stance of the United States Federal Communication Commission (FCC).

The European Parliament in a non-legislative resolution in response to the EU Commission's communication on "internet governance" stated that the internet is a **global public good** and its governance should be exercised in the **common interest**.⁴⁹ It called upon governments to desist from imposing restrictions on internet access by way of censorship, blocking, filtering or otherwise, and from requiring private entities to do so. Any restriction deemed indispensable should be limited to the minimum necessary in a democratic society, should be based on law, and should be effective and proportionate.

The new European Union telecoms rules that took effect on May 25 this year avoid any explicit net neutrality rules. Legislation to prevent telecoms companies from introducing a tiered internet with some content arriving faster than others has been ruled out. Neelie Kroes, Vice-President of the European Commission responsible for the Digital Agenda stated recently that "the Internet' most important characteristic is its universality: in principle, every node can communicate with every other. This has important implications for innovation, plurality, democratic values, cohesion and economic growth. And we must safeguard this".⁵⁰

Should internet providers be allowed to prioritise one kind of internet usage of another? (for instance delaying peer-to-peer applications). And should they be able to charge for that?

Advocates for net neutrality hold that permitting broadband providers to monitor and control traffic in any way is a **slippery slope** toward the infrastructure industry **wielding greater levels of control** over a resource that has become considered a fundamental human right. These voices hold that if large telecommunications corporations are allowed to dominate the Internet then corporate censorship may ruin the most democratic communication tool ever created.

Sir Tim Berners-Lee, the founder of the Internet has advocated legislation to keep the Internet open, saying that: It is such an empowering thing to be connected at high speed and with borders that it's become a human right.

Council of Europe's approach to an open Internet

All Council of Europe member states have undertaken to secure within their jurisdiction the rights and freedoms set out in the European Convention on Human Rights. The fundamental principle of freedom of information, the right to impart and receive information without interference is firmly established in the European Court of Human Rights case law.

The Committee of Ministers has set forth in recent recommendations and declarations the principle of the public service value of the Internet and the resulting legitimate expectation that Internet services be accessible and affordable, secure, reliable and ongoing.⁵¹

⁴⁸ Neelie Kroes, Vice President of the European Commission Commissioner for the Digital Agenda: Net neutrality in Europe – Address at the ARCEP Conference L'Autorité de Régulation des Communications Electroniques et des Postes) 13 April 2010.

⁴⁹ European Parliament non-legislative resolution 23 June 2010.

⁵⁰ Neelie Kroes speech on Internet essentials at OECD, Paris 28thJune 2011.

⁵¹ Committee of Ministers Recommendation (2007)16

The Committee of Ministers has declared its commitment to the principle of network neutrality underlining that any exceptions to this principle should comply with the requirements set forth in Article 10 of the European Convention on Human Rights and relevant case law of the European Court of Human Rights.⁵² In this respect users should have the greatest possible access to Internet-based content, applications and services of their choice, whether or not they are offered free of charge, using suitable devices of their choice.

Conclusion – who is in the backseat?

The challenges that threatened the democratic role of the traditional media have not disappeared. The trend where a few powerful actors can significantly influence or shape public opinion as well as exerting influence on governments is also relevant with regard to the Internet. The Venice Commission questioned the performance of the traditional media as public watchdog in the process of globalization and concentration leading to the growth multinational, including European media corporations.⁵³ This situation, as noted by the Committee of Ministers in a declaration in January 2007, is fundamentally changing the media landscape where "media concentration can place a single or a few media owners or groups in a position of considerable power to separately or jointly set the agenda of public debate and significantly influence or shape public opinion, and thus also exert influence on the government and other state bodies and agencies".

If internet service providers, i.e. large telecom corporations are allowed to actively manage the bandwidth available to certain websites or dominate the Internet it can lead to users being blocked from visiting sites that are not politically correct. In the words of one American senator: "We will end up with a few mega-corporations in control of the flow of information, not just on TV, but online as well".⁵⁴

United States President Obama vowed in 2007 that he would take a **backseat** to no one in his commitment to net neutrality – "to ensure free and full exchange of information which starts with an open Internet - because once providers start to privilege some websites over others – than the smaller voices get squeezed out and we all lose".⁵⁵

Vice-President of the European Commission responsible for the Digital Agenda Neelie Kroes also referred to the **backseat** when discussing policy making in relation to the Internet's most important characteristic - the universality: "public authorities neither can nor should take a back seat".⁵⁶

The future of the Internet is at risk and the adoption of a firm legislation to protect this vehicle of present day democracy appears crucial.

⁵² Committee of Ministers Declaration adopted 29 September 2010 at the 1094th meeting of the Ministers' deputies.

⁵³ http://www.venice.coe.int/docs/2008/CDL(2008)039-e.pdf

⁵⁴ Al Franken, Special to CNN, August 5, 2010:

http://edition.cnn.com/2010/OPINION/08/05/franken.net.neutrality/index.html#fbid=zlf2xze4nBp&wom=false

⁵⁵ Obama addressing Google on 14 November 2007.

⁵⁶ Neelie Kroes Vice-President of the European Commission repsonsible for the Digital Agenda Internet essentials OECD High Level Meeting on Internet Economy Paris, 28 June 2011.

Organizing smooth elections Making processes transparent Alfred Taudes, Vienna University of Economics and Business



Organizing Smooth Elections – Making Processes Transparent Alfred Taudes, WU Wien

Processes and Models

- Organisations get things done through executing processes
- Sequence of activities with the goal of transforming an input into an output
- Cannot be directly observed
- Determine cost, quality, time
- Made transparent through modelling
- Abstraction of reality and design artefact











EFMD

EQUIS

- Static versus Dynamic
- Soundness: Every activity participates in a run from start to end
- SAP Reference Model (Jan Mendling)
- Out of 604 EPCs 5,6% have errors
- P(Error) strongly correlates with process metrics that measure complexity
- Size, Density, Partitionability
- Cyclicity, Concurrency
- Expressiveness of Labels

SEITE 5 FUBZEILE



7 Modelling Guidlines



- Use as few elements in the model as possible
- Minimize the routing paths per element
- Use one start and one end event
- Model as structured as possible
- Avoid OR routing elements
- Use verb-object activity lables
- Decompose a model with more then 50 elements





Paraphrasation / Generation





- After a customer order has arrived, it is registered.
- Then, both Production and Billing are started.
- Production is started by Purchasing Material and Making a Production Plan.
- Billing is Started by Sending a Bill.
- Once Accounts are Outstanding, a Plan and Materials are available Articles are Produced.



· ...





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Configurable Process Models







Process Mining

case 1: task A case 2 : task A case 3 : task A case 3 : task B case 1 : task B case 1: task C case 2 : task C case 4 : task A case 2 : task B case 2 : task D case 5 : task E case 4 : task C case 1: task D case 3 : task C case 3 : task D case 4 : task B case 5 : task F case 4 : task D



Process Quality Framework





"Can modern technology improve the election cycle?"

Peter Wardle **Chief Executive UK Electoral Commission**

> The Electoral Commission

Workshop 2 - Organising Smooth Elections -Making Processes Transparent Can Modern Technology Improve the Voting Cycle?

Peter Wardle

Chief Executive, United Kingdom Electoral Commission 8th EMB conference, Vienna, Austria 12 May 2011

the Voting Cycle

- Key phases of Determining electoral boundaries
 - Voter education
 - Voter registration
 - Absent voting
 - Voting in polling stations
 - Vote counting

Determining Electoral **Boundaries**

- Geographical information systems
- Digital mapping



The

Electoral

Commission

Voter Education

- Awareness/understanding of elections
- · How to register
- How to vote



The Electoral Commission

Voter Education

- Traditional methods
- Print advertising
- Posters
- Leaflets
- TV
- Radio



Local elections



Voter Education

Modern technology

- Internet
- Social networking



Facebook

(23 million active users in UK at 2010 General Election)



Facebook

1.6 million views of "Democracy UK" page

14,000 voter registrations via Facebook





The

Electoral

Commission

The Electoral Commission

You Tube

LET VICTOR EXPLAIN HOW THE TWO SYSTEMS STACK UP

Twitter



CELECTORALCOMMUK Electoral Commission

First past the post or Alternative Vote? You decide! Polling stations are open from 7am until 10pm.

7 hours ago via web



General Election 2010: Kerry McCarthy illegally publishes election vote results on Twitter

Kerry McCarthy, Gordon Brown's "Twitter Tsar", could face six months in prison or a \pm 5,000 fine after she illegally published the results of an election vote online.

Voter Registration

- Register/Roll = foundation of electoral process
- Record of all electors entitled to vote in a particular election
- Incentives to register?
- Need to establish elector's identity

The Electoral Commission

Voter Registration

- Traditional methods
- Paper application process
- Paper lists
- Sometimes linked to other citizen databases, sometimes not
- Modern technology
- Online application process
- Digital/digitised signatures
- Computerised databases
- Data matching with other databases

Absent Voting • For electors unable to vote in person at polling stations

- Sick
- Overseas (including military)
- For convenience
- Cannot guarantee secrecy outside supervised polling station – risks of fraud

The Electoral Commission

Absent Voting

- Traditional methods
 - Postal Voting
 - "Proxy" Voting
 - Modern technology
 - Internet voting
 - Signature matching
 - Issues certification; cost

Voting in Polling Stations • Still by far the most-used method

- Guarantee of secrecy
- Supervised process
- Risk of ID fraud



Voting in • Traditional methods Polling Stations • Paper ballots

VOTE FOR ONE CANDIDATE ONLY				
1	ALCANTARA Gene ArCenters (antiferes of London & Medimination Constituents) Integration			
2	CAMPBELL Beetris Campbel 21 Marel, Cambel 21 Marel, Catolox, NRT 1887 Green Party	邀		
3	FORDHAM Ed Perdham 7 Deeplas Caret, Own Rook Lander, MMI 497 Uberd Dehocrats	No.	X	
4	JACKSON Market Selector (#30ms in Lower And Controllantsy) De Latine Farty Carefulant		CANE AND	
5	MOORE Vateria Moore (attenza vi Harl Moore (attenza vi Harl Moore Constituenty) Betalt National Party	500		
6	NIELSEN Magnus Rister Lathres In Hangeland and Alburn Constituency) UR independence Party	CKIP UKIP		1
7	OMOND Tanase Obsord (address in Hampionical and Killum Constituency) Tanase Orient To The Centrons			
8	PHILP Chair Phile Extension Read Hampback London NRO 17A The Conservation Party Canadian	Construction		

Voting in Polling Stations

- Modern technology
- Polling Stations . Direct vote recording
 - Optical character recognition



Vote Counting • The result...

- Confidence and acceptance
- Speed

Vote Counting • Traditional methods

By hand •



The Electoral Commission

- Vote Counting Modern technology
 - Optical scan
 - · Direct vote recording



Modern Technology and the Voting Cycle: Issues

- Certification
- Costs
- Control
- Community
New approaches for organizing smooth elections

Leonardo Valdes Zurita, Federal Electoral Institute Mexico

In recent years, democratization processes around the world have changed.

Today's challenges faced by liberal democracies are different from those experienced in the 80s during the third wave of democratization in Latin America and Eastern Europe.

The ghost of authoritarianism is less worrying than the search for mechanisms and strategies for countering deficits in democracy and citizenship such as the political representation crisis; a weak rule of law; ineffective protection of human rights and liberties; inequality in terms of wealth distribution and the exercise of power; insecurity and low participation of citizens in public affairs.

Surely this is why I have been invited today for addressing a topic that I think is particularly interesting due to the number of subjects it encompasses: *new approaches for the organization of what has been labeled as "smooth elections"*.

As a result, I would like to delve into the Mexican experience as it could become useful for organizing political or institutional tension-free elections and with full guarantees in terms of security, liberty, legality, certainty and transparency.

From my own opinion, there are five key aspects for the organization of authentic and problem free elections:

- 1. Credibility and trust in the electoral authority (legality, impartiality and restraint in decision making in the face of intense political debate)
- 2. The acknowledgement of democracy as a system of rules accepted by all.
- 3. The use of information technologies for disseminating electoral organization tasks and communicating with society.
- 4. Transparency in the organization of electoral processes and in disseminating election results.
- 5. Citizen participation and follow up in organizing elections and their constant involvement in public affairs.

Before addressing each of these items, please allow me to make a quick reference to Mexico's politico-electoral context.

Mexico is a country with an area of 1.9 million square kilometers (which roughly represent the combined territory of Spain, Portugal, France, England, Italy, Greece, Bulgaria and Romania) and with 82 million potential voters⁵⁷. As a result, the organization of electoral processes implies a new challenge every time. Evidence of this is the installation of around 139,000 voting stations across the country.

Our current political regime derives from a long process of political and electoral reforms that provided peace and stability to our nation. This process started 30 years ago and from all the undertaken reforms it is necessary to highlight three in particular which I deem to be fundamental: the 1977 Reform which led to political liberalization and elevating political pluralism to the Constitution; the 1996 Reform which transformed the electoral authority into a body led and composed by citizens; and the 2007 Reform which established a new model of political communication that guarantees political parties equal access to radio and television.

Throughout this time all the stakeholders involved (government, political parties and society) have perfected an institutional architecture that has allowed us to move, peacefully and

⁵⁷ Mexico's population: 112,336, 538 inhabitants. Source INEGI-2010 Census. Number of citizens registered in the electoral roll: 82, 237, 785; registered in the nominal list: 75, 811, 256 Source: IFE (May 6th 2011)

continuously, from a hegemonic party system to another one defined by plurality and competition.

At the same time, legislative work on political and electoral affairs has provided a strong legal body which is adequate to the new type of campaigns that have recently been implemented in the country: more media centered, more inspected and more competitive.

It is in this context of institutional change where the first of the five topics raised at the beginning becomes relevant.

1. Credibility, legality and moderation of the electoral authority in the face of intense political debate.

The creation of permanent electoral bodies in charge of planning and organizing electoral procedures has provided stability to the renewal of public powers. This has also led to specialization and professionalization, also necessary to deal with increasingly complex situations.

Therefore, I want to emphasize impartiality, independence, objectivity and transparency, as well as the strict adherence to the law, as central components to ensure that the power of the electoral authority is not challenged by competitors

The trust of political actors and citizens in the electoral authority contributes to good governance and to reduce the natural pressures associated with the political power struggle.

2. The acknowledgement of democracy as a system of rules accepted by all.

Political science theorists are right when they consider that one of democracy's main characteristics is the compliance and respect for the rules of electoral competition. Knowledge and acceptance of the rules under which political competition is governed are essential to referee electoral processes.

Without this feature there is no democracy or genuine elections.

In Mexico, the acceptance of electoral rules has allowed that the increase in the competitiveness of electoral processes occurs within legal boundaries.

In this regard, the dissemination by the electoral authority among political actors and citizens of the legislation and procedures that will conduct each of the election's phases becomes essential.

A policy of open doors, transparency and accountability, as well as consensual decision-making and citizen participation in each of the phases lay the groundwork for the organization of successful electoral processes.

3. The use of information technologies for disseminating electoral organization tasks and communicating with society

The use of new information technologies in the organization of elections has played a very important role in the democratic transition of many countries.

In Mexico, from its inception, the federal electoral authority has welcomed advances in science and technology for improving the performance of its duties.

Many of these mechanisms have in turn, contributed to strengthen trust in the authority. Some examples are the following:

- The database that houses the electoral roll, which allows a more efficient construction and preservation of voter data.

- The Preliminary Electoral Results Program (PREP, for its acronym in Spanish) which allows obtaining result statistics almost at the same time when voting stations close.
- Security mechanisms included in the voter id.
- The State Times Management System (SIATE, for its acronym in Spanish) which allows to verify the compliance of the equity principle in the use of electronic media.
- The INFOMEX-IFE website, which ensures the right of access to information generated by the electoral authority.

In fact, I am sure that in the future, technology will allow us to vote electronically without compromising the inviolability and secrecy of the vote.

On the other hand, it is relevant to highlight the importance of having interaction opportunities and information policies that allow an intensive use of traditional mass media and, increasingly, alternative media. Examples of this are the recent use of Facebook and Twitter by IFE to inform of its latest news and recent activities. This is important for divulgating institutional activities and legislative modifications that entail important changes on voting and counting systems or on the conditions of political competition.

4. Transparency in the organization of electoral processes and in disseminating election results.

Transparency and accountability have become key elements in contemporary representative democracies.

Their use as a mechanism for public power control and for evaluating the performance of rulers has contributed to improve the way the State is governed and managed.

In an electoral context, transparency is particularly relevant in the dissemination of electoral results.

Today, most of the elections held in the world are highly competitive and its results are defined by razor thin margins, as shown by the recent elections not only in Mexico but on the US, Italy, Costa Rica, Taiwan and Ukraine, just to name a few. Therefore, transparency and impartiality are quite necessary components of the electoral authority.

Information technologies, characterized by their instant and real time information, have an impact on politics and elections. Therefore, in highly competitive electoral conditions, public opinion, contenders and other stakeholders (starting with the mass media), express their demands for the electoral authority to gather and share preliminary results as soon as possible.

Some countries impose restrictions on the dissemination of electoral results throughout Election Day and until voting closes. However, expectations generated by the electoral struggle along with the pressure exercised by the media to win the coverage or give a first, tend to put the electoral authority in a difficult position.

Therefore, it is important to carefully analyze the implications of these types of measures and to take the institutional steps that best serve the credibility and certainty of electoral results.

The knowledge, acceptance and respect of the rules and the different phases of electoral processes by political actors and citizens provides, in addition to transparency, certainty in electoral results and prevents elections ending up in court houses or tribunals.

Although having timely and transparent electoral results contribute to stability and good governance, it is also necessary to set up effective systems for dispute resolution.

5. Citizen participation and follow up in organizing elections and their constant involvement in public affairs.

A democratic regime is not only about having elections, it should also encourage broad, reasoned and informed social participation in decision making processes in order to foster democratic governance.

This way, elections, besides helping renew public authorities, can open lines of communication between rulers and ruled.

In Mexico, the organization of elections is a task that demands citizen participation to take place. In fact, the democratic transition in our country began with the institutional arrangements that promoted a citizen's democracy. This was done by incorporating citizens during Election Day as polling station officials and by including citizens in the Institutes' directive organs.

In each electoral process millions of citizens are incorporated into the process. Either individually or through civil society organizations, they are actively involved in each stage: professional electoral service officers; electoral trainers-assistants; polling officials (about one million ordinary citizens which get selected randomly); political party representatives; electoral observers, electoral councilors; vote promoters and of course, the citizens that exercise their right and obligation to choose their representatives by voting.

Nonetheless, this social mobilization is intermittent. Citizen's interest in public affairs needs to be encouraged.

From my point of view, it is necessary to move from a procedural democracy to a citizen's democracy. This is one of the main challenges that liberal democracies face.

Today we are confident to affirm that Mexico's electoral system guarantees the transparency of election results; the equal access of political parties to mass media; equity in campaigns, and especially, provides certainty to political actors and chiefly to Mexicans.

However, much remains to be done so that the benefits provided by democratic regimes are noticeable by citizens in their daily lives.

With increasing competitiveness in electoral process, the credibility of electoral authorities becomes more and more important. To the extent that the institutions responsible for organizing elections demonstrate impartiality, transparency in their decision and promote citizen's involvement in public affairs, we can access a world of smooth elections. Technology is a tool and the construction of citizenship the main component of the process.

How to organise smooth elections Robert Stein Federal Ministry of the Interior Republic of Austria

"The future of polling stations in the light of new voting channels"

Possibilities to increase turnout

- Attractive voting channels (voting cards, postal voting, mobile election commissions, electronic voting,...)
- Wide array of information for voters
- Smooth handling of casting votes
- Sufficient number of polling stations

"Usability" for the electoral administration

• Parallel voting channels

- Sufficient dimension of voting channels
- Clear rules on polling stations, polling booths, ballot sheets and the verification of voters
- Sufficient information for voters in advance
- sufficient information for members of election commission
- Availability of self-explanatory forms
- Clear rules for vote counting and forwarding results

Voting Channels

- Casting the vote at the "home polling place"
- Casting the vote in another polling station
- Casting the vote before a so-called "flying election commission"
- Casting the vote by postal ballot
- Advance voting (early voting) at polling stations
- Electronic voting

Dimension of voting channels

- Sufficient number of polling stations in order to reach them in adequate time
- Number of voters has to suit the capacities of polling stations (no long lines!)
- Opening hours must be long enough for a certain number of voters
- Material for postal voting must be easy to access and to understand
- Transparency of the work of "flying commissions"
- Highest security standards when using e-voting

What should polling places look like?

- Uniform standards and clear rules for every single polling station
- Setting-up of polling booths has to ensure secrecy of the vote
- No possibility to track ballots back to voters (e.g. no stamping)
- Easy-to-use ballot papers
- Inclusion of voters with special needs: barrier-free, templates for the blind,...
- Strict regulations on how to verify voting right

Sufficient information for voters in advance

- Information on the different voting channels
- Information on how to vote outside polling places (the "home polling place")
- Wide array of information on the internet, interactive sites (e.g. to order voting cards)
- Right to examine voters lists (voting right!) and to correct errors

Sufficient information for members of election commissions

- Availability of self-explanatory forms
- Education of poll workers is crucial (seminars, brochures,...)
- Standardised forms from superior EMBs to be used by all election commissions
- Same level of (clearly understood) information for all members of election commissions

Clear rules for vote counting and forwarding results

- Strict and binding regulations on how to determine the validity and invalidity of votes → enormous importance!
- Adequate infrastructure for forwarding local results to the next EMB level
- Don't make big secrets out of local results that have already leaked through → danger of distrust

How to organise smooth elections?

Robert Stein, Federal Ministry of the Interior Republic of Austria



Robert Stein Federal Ministry of the Interior / EMB Republic of Austria

How to Organise Smooth Elections

8th European Conference of Electoral Management Bodies

Vienna, 12 May 2011

BUNDESMINISTERIUM FÜR INNERES, 1014 WIEN, HERRENGASSE 7, TEL.: +43 - (0)1 - 531 26 - 0

"The future of polling stations in the light of new voting channels"

→ Political goal in basically every state: Increase of turnout

Possibilities to increase turnout:

- attractive voting channels (voting cards, postal voting, mobile election commissions, electronic voting,...)
- wide array of information for voters
- smooth handling of casting votes
- · sufficient number of polling stations

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"Usability" for the electoral administration

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- Sufficient dimension of voting channels
- Clear rules on polling stations, polling booths, ballot sheets and the verification of voters
- Sufficient information for voters in advance
- sufficient information for members of election commission
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Voting Channels

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Thank You.

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Chair 3rd working session

Prof. Dr. Jur Herdis Thorgeirsdottir, Member of the Venice Commission

Distinguished colleagues, ladies and gentlemen,

First of all I would like to express my gratitude for the opportunity to participate in this working session on the topic of e-voting or Internet-voting. Why Internet-voting? There has been a trend of decreasing voter turnout in most established democracies since the 1960s. A low voter turnout is of course a threat to democracy which alongside human rights and the rule of law is one of the three pillars of the European constitutional heritage.

It need hardly be emphasized that the Internet is enabling us to participate in public life and the democratic process to an extent unimaginable not to many years ago.

The question whether Internet-voting will promote political participation is one of the many interesting issues that will be addressed by the speakers and participants in this working session and the subsequent workshops.

The five principles underlying Europe's electoral heritage are universal, equal, free, secret and direct suffrage. Furthermore, elections must be held at regular intervals. These principles are as the Venice Commission has emphasized – essential for the democratic process and if Internet-voting is used it must comply with these principles. The methods of Internet-voting must be secure and reliable – and the system's transparency must be guaranteed. The Council of Europe Committee of Ministers emphasized in its 2004 recommendation on legal, operational and technical standards of e-voting in elections and referendums that such elections must meet the above principles.

There are many issues that need to be addressed with regard to Internet-voting; for example the challenge it may pose to the secret ballot which is essential for democracy. Is it possible to construct a sufficiently secure, authentic, confidential, reliable Internet voting system?

Voting seems a difficult question for computer science: the system must verify your eligibility to vote; know whether you have already voted and allow for audits and recounts. Yet it must also serve your anonymity and privacy. How come that Internet-voting is not used more widely than is the case within the member states of the Council of Europe today?

Internet voting is a means to an end – not an end in itself. There are not only technical issues; there is the question whether Internet voting will enhance equality or deliberative democracy? There is declining enthusiasm for representative government. Is it possible that those citizens who are traditionally not interested in politics can be mobilized to vote via the Internet? Or is Internet-voting contrary to the imperatives of democracy? Will it result in impulsive voting behaviour? The new communication technologies also disconnect people from their immediate, political, social, economic and geographic surroundings – various factors are putting under pressure social cohesion and the values that an efficient political democracy rests on.

Be prepared to be inspired by the speakers you will listen to this morning.

Our first speaker is Dr Ülle Madise a leading expert on e-voting. She is professor of public law and legal advisor to the president of Estonia which is one of the few countries that allow legally binding remote Internet-voting. Dr Madise has worked on the Estonian E-voting project for 10 years. She has also taken actively part in drafting the Council of Europe guidelines on certification of e-voting.

Before I give Dr Madise the floor I would briefly like to introduce the other experts who will address different issues regarding Internet-voting in three parallel workshops after the coffee break at 11.30.

Mr Gregor Wenda – whom I need hardly introduce since we all know him by now due to his excellent work in preparing this congress on behalf of the Federal Ministry of Interior of Austria -

will chair a workshop and give a presentation on the status-quo of e-voting the year 2011-Why are so many countries not allowing e-voting or giving up on e-voting?

Ms Ardita Driza Maurer from the Federal Chancellery of Switzerland will ponder the question of trust with regard to e-voting – **How to tackle concerns and maintain trust** – she says that a well-designed direct democracy as practiced in Switzerland builds up mutual trust and helps to strengthen social cohesion – she will in her workshop discuss challenges that the Federal Chancellery and the cantons in Switzerland are now facing.

Mr Robert Krimmer, senior advisor on New Voting Technologies for OSCE/ODIIHR based in Warsaw, Poland will in his workshop discuss **Election Observation of New Voting Technologies** and also asks how trust can be established.

These experts will shed light on many controversial issues surrounding Internet-voting.

Since I can barely wait to join you to listen to a very interesting speaker - I don't want to waste another moment of her time - please give an energetic welcome to our key speaker this morning, Dr Ülle Madise.

E-voting – quo vadis?

Prof. Dr. Ülle Madise Legal Adviser to the President, Former member of the Estonian Electoral Commission, Professor at Tallinn University of Technology

1. Introduction

In many countries that have created and allowed postal voting, advance voting, proxy voting and other supplementary voting methods, voting at a polling station on Election Day has virtually lost its significance as a specific ritual of being citizen.

Only Estonia, Switzerland and some other countries allow legally binding remote I-voting; some countries (e.g. Norway) are on the way towards countrywide use of I-voting. The list of countries that have given up the use of different forms of e-voting is much longer: US, Germany, Finland, Netherlands58. France for example tries to keep alive the tradition of voting only in the polling station, as it ritualizes citizenship 59 but has allowed proxy-voting. The reasons of allowing or giving up on I-voting are different but constitutional questions of whether fair and free voting can be secured in case of remote I-voting have always been raised.

We are facing the pressure of information society60: on the one hand people require e-services including e-enabled voting; on the other hand cyber-threats are more serious than ever before.61 The social changes have already forced countries to allow remote postal or proxy voting62. We have to admit that holding on to old traditions (one single Election Day, casting paper-ballots in a controlled environment as only option etc) is not possible in the future; but free and fair elections, anonymity of the vote as well the principle of uniformity must be guaranteed as set down by the Venice Commission in the "Code of good practice in electoral matters".

The Council of Europe has adopted recommendation63 and guidelines64 for e-enabled elections; and OSCE/ODIHR is looking for ways to observe and evaluate e-enabled voting incl. I-voting.

While addressing the challenges of e-voting I am going to concentrate myself on mainly remote Internet voting and Estonian experience which we have been able to follow and analyze for 7 years and through 5 elections. Of course, it does not pretend to be a big generalization, each country should decide independently whether or not to use e-enabled voting. It depends on country's traditions, culture and existing infrastructure.

⁵⁸ See the database on Competence Center for Electronic Voting and Participation <u>http://db.e-voting.cc/</u>. German constitutional court decision to declare the use of voting machines unconstitutional: BVerfG, 2 BvC 3/07 vom 3.3.2009, Absatz-Nr. (1 - 163), <u>http://www.bverfg.de/entscheidungen/cs20090303_2bvc000307.html</u>. The core of the decision in German: "*Der Grundsatz der Öffentlichkeit der Wahl aus Art. 38 in Verbindung mit Art. 20 Abs. 1 und Abs. 2 GG gebietet, dass alle wesentlichen Schritte der Wahl öffentlicher Überprüfbarkeit unterliegen, soweit nicht andere verfassungsrechtliche Belange eine Ausnahme rechtfertigen.*

Beim Einsatz elektronischer Wahlgeräte müssen die wesentlichen Schritte der Wahlhandlung und der Ergebnisermittlung vom Bürger zuverlässig und ohne besondere Sachkenntnis überprüft werden können."

L. Monnoyer-Smith. How I-voting technology challenges traditional concepts of citizenship: an analysis of French voting rituals. –R. Krimmer (ed.), Electronic Voting 2006: 2nd International Workshop Co-organized by Council of Europe, ESF TED, IFIP WG 8.6 and E-Voting.cc. Bonn: Gesellschaft für Informatik 2006, pp. 63-64.
 W. Drechsler. Dispatch From The Future. -The Washington Post, 5 Nov 2006.

J. Farwell, R. Rohozinski. Stuxnet and the Future of Cyber War. -Survival 53/1, 2011, pp 23 – 40.

⁶² See e.g. thorough overview of the remote postal voting in N. Kersting. Briefwahl im Internationalen Vergleich. –Österreichische Zeitschrift für Politikwissenschaft, 33 Jg, H 3, 2004, S. 325-328.

⁶³ Recommendation on legal, operational, and technical standards for e-voting, Rec(2004)11; Recommendation on Electronic Democracy. Rec(2009)1. Available on Council of Europe website

⁶⁴ Certification of E-voting Systems, GGIS(2010)3E; Guidelines on transparency of e-enabled elections, GGIS(2010)5E. Available on Council of Europe website.

Estonia has used remote Internet voting in five elections: twice in municipal, twice in *Riigikogu* (parliament) and once in European Parliament elections. The number of I-voters has grown abrupt from less than 10 000 in municipal elections 2005 to over 140 000 in parliamentary elections 2011. The latter constitutes 24,3 % among all votes casted and 56,4% among total advance votes given.

A possible lack of legitimacy of the election results could result from the following:

• The privacy of individual I-voting procedure cannot be supervised by authorities or observed in a traditional way. Therefore, massive buying and selling of votes as well as exercise of other influence or pressure on the voter are possible;

• The people themselves cannot verify I-voting results, and people need to have an absolute faith in the accuracy, honesty and security of the whole electoral system (people, procedures, software, hardware). For people who didn't develop the system, the computer operations can be verified only by knowing the input and comparing the expected with the actual output. Under a secret ballot system, there is no known input, nor is there any expected output with which to compare the electoral results. Technologies offering paper-trail would solve the problem only apparently.

In the case of Internet voting, it is impossible to secure the privacy aspect of the voting procedure. The voter's right to anonymity during the counting of the votes can be guaranteed, indeed to the extent to which this can be secured in the case of remote postal voting. Therefore remote Internet voting requires rethinking of the privacy principle (as postal voting does).

The principle of privacy is there to protect a person from any pressure or influence against her or his free expression of political preference. The individual has to be aware of risks, i.e. technical risks, and he or she has to have the right to decide whether or not to use the Internet voting opportunity. In Estonia the Supreme Court has agreed with the teleological approach in the principle of secrecy65.

H. Buchstein on the other hand does not agree with this way of thinking:

"Mandatory secrecy is a principle which goes beyond constitutional law, its fundaments are based on the idea of auto-paternalism and it is understood as a mechanism of self-binding of autonomous citizens in order to avoid situations of external pressure or corruption. In this concept, it is not the individual him- or herself, but a warranted outside agent or authority – normally the state – that is responsible for providing the necessary means to allow for the secret ballot." 66

The postal voting as another form of absentee ballot is widespread and being accepted in Germany, indeed. To increase turnout conditions restricting postal voting were eliminated. The German Federal Constitutional Court has twice declared the remote postal voting as constitutional arguing that facilitation of voter turnout overweighs in this case the possible problems with security and public scrutiny over electoral processes.67 In France, on the contrary, postal voting was abolished in 1975 because of incidents of fraud.

2. Increase of turnout & universal suffrage

One of the aims of launching online voting is to increase voter turnout, which perhaps could be described more realistically as widening access possibilities and stopping the decrease in

⁶⁵ Available at http://www.nc.ee/?id=381

⁶⁶ H. Buchstein. Online Democracy, Is it Viable? Is it Desirable? Internet Voting and Normative Democratic Theory. -N. Kersting and H. Baldersheim (eds), *Electronic Voting and Democracy. A Comparative Analysis*, Basingstoke: Palgrave Macmillan, pp. 39-58.

⁶⁷ BVerfGE 21, 200 (15.02.1967); BVerfGE 59, 119 (24.11.1981). Available at http://www.wahlrecht.de/wahlpruefung/index.htm

participation. Scholars bring on the positive side of I-voting also out that I-voting could and should better accommodate the needs of disabled voters.68

The actual impact of Internet voting on the change of turnout does not lend itself to objective analysis. One can determine the variations of turnout in different election years (comparing equivalent types of elections) and attempt to clarify the causes underpinning variations with the help of sociological studies. Perhaps the most important question is what share of the electorate would not have participated in the voting, had the Internet voting opportunity not been provided. There does not exist a way of obtaining empirical evidence. We must, therefore, come to terms with unverifiable claims made by the voters themselves. The only exception is the case when Internet voting is the only possibility for the elector to vote and he or she uses this possibility. For example, the local government council elections in Estonia do not provide the possibility of voting abroad by postal ballot or at a diplomatic representation. Nonetheless, it is possible to vote over the Internet abroad.69

	2005 LE	2007 PE	2009 EPE	2009 LE	2011 PE
Number of I-votes	9 681	31 064	59 579	106 786	145 230
Repeated I-votes	364	789	910	2 373	4 384
Number of I-voters	9 317	30 275	58 669	104 413	140 846
I-votes cancelled by paper ballot	30	32	55	100	82
I-votes counted	9 287	30 243	58 614	104 313	140 764
Number of all votes casted	502 504	555 463	399 181	662 813	580 264
I-votes among all votes casted	1,9%	5,5%	14,7 %	15,8%	24,3%
I-votes among total advance votes given	7,2%	17,6%	45,4%	44%	56,4%
I-votes cast abroad (nr of countries)	n.a	2 % (51)	3 % (66)	2,8% (82)	3,9% (105)

 Table 1 Estonian I-voting statistics 2005-2011

Source: National Electoral Committee

In Estonian case the I-voting seems to have slightly increased the turnout70. In 2007, approximately 10 % of the questioned I-voters said that they certainly or probably would not have voted without having had the possibility to vote via the Internet. Moreover, Trechsel and Vassil show that the percentage of the questioned I-voters who certainly or probably would not have voted without having had the possibility to vote via the Internet has risen to 16,3% which allows the conclusion that the overall turnout might have been up to 2,6% lower in the absence of such a method of voting. That is already a significant marker when looking at the impact of Internet voting on the overall turnout. Well, probably the pattern of electoral behavior would be the same

⁶⁸ See e.g M. Loncke, J. Dumortier. Online voting: a legal perspective. –International Review of Law, Computers & Technology, 2004, 18:1, pp 60-61.

⁶⁹ Ü. Madise, E. Maaten. Internet Voting in Estonia. –D.R. Insua, S. French (Eds). Advances in Group Decisions and Negotiation Vol 5 e-Democracy: A Group Decision and Negotiation Perspective. Dordrecht, Heidelberg, New York, London: Springer, 2010, pp 314-316.

F. Breuer, A. Trechsel. E-voting in the 2005 local elections in Estonia: Report for the Council of Europe 2006, available at the Council of Europe website.

in other Council of Europe countries as well. That brings us to the next question: the equality and uniformity of voting.

3. Uniformity

Digital gap and equal chances to get represented

Trechsel *et al* concluded in the report prepared for the Council of Europe following the experience of the Internet voting in 2005 and 2007 that education and income, as well as type of settlement are insignificant factors in choosing the Internet from other voting methods. One of the most important findings of that study was that it is not so much the cleavage between the Internet access haves and have-nots, but clearly computing skills, frequency of the Internet use and trust in the I-voting procedure that direct voters' decisions to use or not use I-voting. Age remains a significant factor for some years 71. Moreover, some interesting conclusions have been drawn in the latest report by Trechsel & Vassil in 2010 where they state that the ICT variables (computing knowledge and frequency of Internet usage) have disappeared since the 2009 elections as predictors of Internet Voting usage.72

In the discussion about equal access to the place of voting some authors73 ignore the fact that there are quite many different voting methods; e.g. if a voter is unable to vote at a polling place due to his or her state of health or for another good reason, and he or she is not able or willing to vote online, he or she may apply to vote with paper-ballot at home on the Election Day.

The Estonian Supreme Court has stated:

"The principle of equal treatment in the context of electing representative bodies does not mean that absolutely equal possibilities for performing the voting act in equal manner should be guaranteed to all persons with the right to vote. In fact, those who use the different voting methods provided by law (advance polls, voting outside the polling division of residence, voting in custodial institutions, home voting, voting in a foreign state, etc) are in different situations. For example, the voters who have to use the possibility of advance polls, are in a situation different from that of the voters who can exercise their right to vote on the election day. The guarantee of absolute actual equality of persons upon exercising the right to vote is infeasible in principle and not required by the Constitution".74

In the future the number of people without Internet access will probably decrease, but the digital gap would be even deeper than before. People without Internet access will have significantly less information, no access to voting-advice applications etc. In this case not the access to I-voting (until other methods of voting are still there) but access to the candidates and parties information might be the constitutional problem.

4. Impact on the voting results

The most intriguing question for political parties is probably the impact of the use of I-voting on results. Impact on the voting results can result from the fact that votes given by those voters who would not participate if I-voting would not exist may not be distributed proportionally over political spectrum. However, the study shows that left-right auto-positioning of the voter does not play any

Council of Europe, 2007, available at <u>http://www.vvk.ee/public/dok/CoE and NEC Report E-Voting 2007.pdf</u> 72 A. Trechsel, K. Vassil. Internet Voting in Estonia. A Comparative Analysis of Four Elections since 2005. Council of Europe and European University Institute 2010. Available at

http://www.vvk.ee/public/dok/Report - E-voting in Estonia 2005-2009.pdf

A. Trechsel. Internet voting in the March 2007 Parliamentary Elections in Estonia: Report for the

⁷³ See f.e S. Meagher. When Personal Computers are Transformed into Ballot Boxes: How Internet Elections in Estonia Comply with the United Nations International Covenant on Civil and Political Rights. – American University International Law Review, 2008, 23, pp. 374-376.

⁷⁴ Chamber of Constitutional Review of the Estonian Supreme Court, judgment Nr 3-4-1-13-05, point 24. Available at <u>http://www.nc.ee/?id=381</u>

important role while choosing a voting channel. The same applies to the 200975 and 2011 elections.

Table 2. Relation of Protes to all votes given to a political party										
	200	5 LE	2007	7 PE	2009	EPE	2009	9 LE	201	1 PE
	a)	b)	a)	b)	a)	b)	a)	b)	a)	b)
RP	32, 7	3,6	34, 5	6,8	20, 1	19, 3	25, 1	23, 7	37, 0	31,7
PRU	10, 4	2,3	26, 7	8,2	17, 3	20, 9	22, 5	25, 5	25, 4	30,3
PP	17, 5	3,8	-	-	-	-	-	-	-	-
SD	9,9	2,9	13, 3	6,9	10, 4	17, 6	10, 7	22, 6	18, 0	25,8
GP	-	-	10, 7	8,2	3,3	17, 9	2,0	27, 4	4,3	28,0
СР	8,7	0,6	9,1	1,9	10, 9	6,2	14, 7	7,4	9,9	10,4

Table 2. Relation of I-votes to all votes given to a political party

Data: National Electoral Committee

a) Percentage of I-Votes

b) Relation of I-Votes to total votes in per cents

RP- Reform Party

PRU- Pro Patria and Res Publica Union (in 2005 only Res Publica)

PP- Pro Patria Union (merged with Res Publica to PRU since 2007)

SD- Social Democratic Party

GP- Green Party

CP- Centre Party

When comparing the overall Internet Voting division of votes with the relation of e-votes *vs* total votes not only the growing proportion of e-votes could be observed. According to Table 2 the most popular e-party is not always the one profiting the most of it. The PRU (PP) and the GP (instead of the winner RP) have been greatest benefactors from Internet Voting. The small numbers of e-votes on the account of the otherwise popular CP can be explained by the strong opposition to Internet Voting from the very beginning, but probably also by specifics of the electorate.

The hypothesis that I-voting rewards advantages to urban electorate found no proof. Gender is also not an important factor when choosing I-voting from possible voting channels. Age, on the contrary, is quite an important factor in choosing Internet voting76 But still, as can be seen in the figure 1 no age group is clearly dominating. Take notice of the age group 55+ with up to 20% of all Internet Voters. So, although younger age favors the use of Internet as means of voting, it does not give all answers.

It is nevertheless really interesting to compare the age groups in Internet Voting with the overall electorate. For the lack of more comprehensive reference survey data from an exit-poll conducted at the 2007 parliamentary elections by Tartu University Department of Political Science77. According to the poll the age groups are divided as following: up to 24 12,3%, 25-34 16,3%, 35-44 19,5%, 45-55 16,5% and over 55 35,4%. When comparing to Internet voting results in 2007 we see a strong overrepresentation in the under 35 group and underrepresentation in the over 55 age group. This appears to be consistent with the importance of age in deciding to choose Internet voting as a voting method.

⁷⁵ A. Trechsel, K. Vassil (FN 15)

⁷⁶ Ibid.

⁷⁷ R. Toomla. Results of 2007 Riigikogu Elections exit polls. Conducted by the Department of Political Science of Tartu University. Unpublished, available to the author.

5. Virtual voting booth

The former President of Estonia refused to promulgate amendments to the Local Government Council election act78 arguing that I-voters are in better position when compared to other voters who do not have any right to change the vote once given.79 The initial version of the I-voting law contained the possibility to change the I-vote with a paper-ballot not only during advance voting days but also on the Election Day. To solve part of the problems indicated by the President, *Riigikogu* restricted the time of II-voting to advance voting days. The chance to change election preference on Sunday after receiving additional information about candidates in the second half of the week had really put I-voters into better situation. After this change, all voters who use advance poll possibilities were formally in the same conditions. The President did not see these changes sufficient and initiated constitutional review.

The Supreme Court Chamber of Constitutional Review pointed out that despite the repeated electronic voting, there was no possibility of the voter affecting the voting results to a greater degree than those voters who used other voting methods. From the point of view of the voting results, this vote was in no way more influential than the votes given by paper ballot.

The most important statements of the Supreme Court were following. The principle of freedom of vote gives rise to the obligation of the state to protect voters from persons attempting to influence their choice.

The aim to increase voter turnout is without any doubt legitimate. The measures the state takes for ensuring the possibility to vote for as many voters as possible are justified and advisable. Another aim of allowing I-voting is the modernization of voting practices that coincides with the aims of I-voting listed in the Recommendation Rec (2004) 'Legal, operational and technical standards for I-voting' of the Council of Europe.

In accordance with the Penal Code, preventing a person to freely exercise his or her right to elect or be elected at an election or to vote at a referendum, if such prevention involves violence, deceit or threat or takes advantage of a service, economic or other dependent relationship of the person with the offender is punishable by a pecuniary punishment or up to one year of imprisonment. The voter's possibility to change the vote given by electronic means during the advance polling days constitutes an essential supplementary guarantee to the observance of the principle of free elections and secret voting upon voting by electronic means.

A voter who has been illegally influenced or watched in the course of electronic voting can restore his or her freedom of election and the secrecy of voting by voting again either electronically or by a ballot paper, after having been freed from the influences. In addition to the possibility of subsequently rectifying the vote given under influence, the possibility of voting again serves an important preventive function. When the law guarantees a voter, voting electronically, the possibility to change the vote given by electronic means, the motivation to influence him or her illegally decreases.

There are no other equally effective measures, beside the possibility to change the vote given by electronic means, to guarantee the freedom of election and secrecy of voting upon electronic voting in an uncontrolled medium. The infringement of the right to equality and of uniformity, which the possibility of I-voters to change their votes for an unlimited number of times can be

⁷⁸ Draft nr. 607 SE in X *Riigikogu* proceedings. The draft, information regarding parliamentary procedures as well motions to change the draft are available on the parliaments web-site

http://www.riigikogu.ee/?page=eelnou2&op=ems&eid=607&assembly=10&u=20110420131938 (in Estonian). The I-voting provisions were first adopted as a law in 2002, see drafts nr. 747 SE, 748 SE, 771 SE and 906 SE in IX *Riigikogu* proceedings. Right before the very first use of I-voting in 2005 municipal elections the *Riigikogu* decided to change some I-voting provisions and the President used his suspensive veto foreseen in § 107 of the Constitution of Estonia.

⁷⁹ Decision nr. 873, 22.06.2005, <u>http://vp2001-2006.vpk.ee/et/ametitegevus/otsused.php?gid=64640</u> (in Estonian)

regarded as amounting to, is not sufficiently intensive to overweigh the aim of increasing the participation in elections and introducing new technological solutions.80 Norwegian scholars have arrived at similar principles independently before obtaining detailed knowledge about the Estonian Internet voting system81.

In fact the number on changed and replaced votes has been low through all elections. The maximum number of replaced votes has been 100 and the percentage of repeated votes does not exceed 4 % of total e-votes82. So, any fears of misusing these opportunities cannot be confirmed.

In short, the fact that the Internet voter is in somewhat different position compared to the traditional voter does not in itself carry an infringement of the constitutional values. The Supreme Court thus confirmed the constitutionality of one of the main premises of the remote Internet voting project.

6. Computing skills and security of the voter's computer

As seen before good computing skill has been an important factor in choosing Internet voting as a mode of voting for the 2005 and 2007 elections. Since 2009 the ICT variables have lost it's meaning in defining the reasons behind the choice of using e-enabled voting. However, since the absolute number of Internet voters has steadily risen, the question of technical uniformity and usability emerges. I- Voting has been offered in a variety of environments and platforms claiming to cover the maximum number of possible voters. In addition, comprehensive info materials and a 24h helpline are available.83 However, a peculiar issue was brought up in the 2011 elections. There were a few voters who used a very rare combination of screen resolution, Windows 7 and font sizes in their computer. So, when using the Internet voting application a portion of the interface and control buttons were left behind the Windows taskbar. This would not have been a greater problem unless some of the candidates' names weren't also covered by the taskbar. One of the candidates brought a complaint to the Supreme Court that stated:

The chamber adds that in organizing Internet voting the state has to guarantee the accordance of the application with most common hardware, operational systems, resolutions and fonts. In some cases the compliance cannot be guaranteed. In case of such problems the voter has the possibility to contact the technical support. If the issues cannot be solved the voter could use the traditional means of voting. 84

Therefore, ensuring the compliance of the computer with the Internet voting application is clearly left to the user.

One of the fundamental security problems with e-enabled voting is the necessity to trust the voters' computer. The central system is and can be protected by the state. The spread of malware in private computers in the other hands cannot easily be limited- either by state or private efforts. The analysis even says that the modern personal computer is a "black box" nobody can or is able to control. Therefore, the security of the computer where the voting application is run stays an actual issue. The user- the voter- himself can of course take actions in protecting the computer but nevertheless this cannot solve all possible consequences. So, the security of the voting application is a topic that is being taken extra care of.

However, the issue of secrecy has stood up prominently during the 2011 elections where a computer enthusiast hacked his own vote in his own voting application on his own computer. He was able to modify the vote and create an illusion where the vote was not sent to the central system. He was also keen to go public with his discovery (to national media) and later bring the

⁸⁰ Chamber of Constitutional Review of the Estonian Supreme Court, judgment Nr 3-4-1-13-05 (Note 32).

⁸¹ G. Skagestein, A.V. Haug, E.Nodtvedt, J. Rossebo. How to create trust in electronic voting over an untrusted platform. -R. Krimmer (ed.), (Note 2), p 108.

⁸² See Table 1 for further data.

^{83 &}lt;u>http://www.valimised.ee/internet_eng.html</u>

⁸⁴ In judgment no 3-4-1-6-11 (<u>http://www.riigikohus.ee/?id=11&tekst=RK/3-4-1-6-11</u>, in Estonian)

issue up to the Supreme Court. It is important to say that all the discovered problems and situations were monitored in the central system and the revealed threats had been discussed already in the 2003 security analysis.

Subsequently, the Supreme Court in its judgment no 3-4-1-4-1185 states that knowingly manipulating his own vote can not be seen as grounds of an infringement of the overall security of Internet Voting system. Looking at an analogy with traditional voting, a voter could easily go to the polling booth and turn the polling paper invalid (by scrapping or doodling on the paper etc.). That is conscious decision and is totally legitimate.

However, the debate about secrecy is never completed. An issue that was also raised by the computer enthusiast described earlier is traceability of the vote. The reasoning behind this agrees that the online environment cannot be trusted and additional external proofs of compliance have to be generated. A very interesting Internet Voting pilot project shall be introduced late 2011 in Norway86. In this project external means to confirm the choice are used. Namely, voters receive a special paper polling card (by post) with all running candidates who are represented there by code-names. After voting the voter has a possibility to inquire the code of the cast vote via independent channels. This should, in theory, guarantee that the vote could be traced and that it has been accepted.

First, new channels on communication have to be built and secured between the state and the voter. Secondly, issues with the principle of anonymity come up where the voter has to understand the fact that under some circumstances the state knows how he/she has voted. Thirdly, how does this traceability affect the possibilities to buy or sell one's vote over the Internet?

It is likely that while deciding whether to support electronic voting, political parties in the parliament take into account the potential effect of remote Internet voting on their election results. The alleged impact of e-voting resting on the supposition that it would attract persons to the elections who would otherwise not concern themselves with going to the polling station is likely to increase or reduce the number of mandates in the proportional electoral system, provided that additional votes will not be distributed proportionally amongst political parties.

7. Certification and Auditing

American scientists Jefferson, Rubin, Simons and Wagner maintained, after having mapped the risks related to Internet voting, in their 2004 SERVE report: "we reluctantly recommend shutting down the development of SERVE immediately and not attempting anything like it in the future until both the Internet and the world's home computer infrastructure have been fundamentally redesigned, or some other unforeseen security breakthroughs appear",

As shown before, in some societies e-enabled voting as one of the public e-services can be required by the people. Therefore special emphasis should be put on certification and auditing procedures. These are only way for MP-s and broader public to build up trust towards I-voting. Under certification in broader term a process of confirmation that an e-voting system is in compliance with prescribed requirements and standards and that it at least includes provisions to ascertain the correct functioning of the system is understood. This can be done through measures ranging from testing and auditing to formal certification. The end result is a report and/or a certificate. Audit is an independent pre- or post-election evaluation of a person, organisation, system, process, entity, project or product, which includes quantitative and qualitative analysis.87

⁸⁵ Available at <u>http://www.riigikohus.ee/?id=11&tekst=RK/3-4-1-4-11</u> (in Estonian)

⁸⁶ For more info about the Norwegian Internet Voting system see http://www.regjeringen.no/en/dep/krd/prosjekter/e-vote-2011-project.html?id=597658

⁸⁷ Council of Europe Rec(2004)11 and guidelines based on that recommendation.

In Estonia currently there is no domestic or international public body present that would be ready to certify and audit all the elements of entire I-voting system before, during and after election procedures. In Estonia hired specialists performed comprehensive tests in order to check the functionality and accuracy of the system both by testers and in public (demo voting). A third-party audits the source code and the operational procedures that have been carried out.

The Estonian I-voting system was developed following the principle that all components of the system must be transparent for audit purposes. Procedures should be fully documented and critical procedures should be logged, audited, observed, and videotaped as they are conducted. A common requirement is that the source code of the voting application should be available for auditing. In Estonia, though, the code is not universally available but it could be audited if agreed by the NEC.

As a rule the process audit is ordered from external internationally certified IT auditors. The audit reviews and monitors sensitive aspects of the process, such as updating the voters list, preparation of hardware and its installation, loading of election data, maintenance and renewal of election data and the process of counting the votes, etc. At the counting event on Election Day auditors publicly declare their opinion about the soundness of the procedures of the electoral administration to that point. The report of auditors, released after all procedures, (including the destruction of all voting equipment incl. I-votes), states if the I-voting procedures followed the rules described in the system's documentation and the integrity and confidentiality of the system was not endangered. To date all reports have been positive.

The I-voting system produces a wealth of system log information that can be used to monitor the work of the system thoroughly. In its different stages, the I-voting system produces different logs on received, cancelled, and counted votes, also invalid and valid votes. The Audit Application enables to determine what happened to an I-vote given by a concrete person without revealing the voter's choice. These logs provide external auditors as well as observers with information that they can use to ensure that the system is working correctly.

According to the Estonian electoral laws, all activities related to elections are public. Observers have access to the meetings of all election committees and can follow all electoral activities, including the voting process, counting and tabulation of results. Internet voting is no different. All significant documents describing the I-voting system are public. In order to enhance the observers' knowledge about the system, political parties are invited to take part in a training course before each election in which I-voting is used. Beside political parties, auditors and other persons interested in the I-voting system take part in the training. In addition, observers are invited to follow the test of the whole process and take part in other preparatory procedures. However, few political parties have so far exercised their opportunity to observe the I-voting procedures88. It is important that observers are deployed for a length of time necessary to allow meaningful observation. If some important stages influencing the correctness of final results have not been observed, the conclusions about the integrity of the system cannot be made.

The OSCE did audit the 2007 elections and in its report it states "election administration implemented the [l-voting] system in a fully transparent manner, and appeared to take measures to safeguard the conduct of Internet voting to the extent possible"89. Professional, independent, reliable and comprehensive IT audit and certification procedures should compensate the lack of simple public scrutiny.

In the Estonia e-ID enables secure remote identification, the e-ID penetration is wide, all advance voters are in the same conditions, the "virtual voting booth" (the right to replace an I-vote with another I-vote or a paper-ballot) and "virtual double envelope system" ensure freedom of voting and uniformity of elections. Moreover, it is justified by the aim to guarantee universal suffrage in

⁸⁸ E. Maaten and T. Hall. Improving the Transparency of Remote I-voting: The Estonian Experience, in R. Krimmer, R. Grimm (eds), *Electronic Voting 2008*, Gesellschaft für Informatik, Bonn, 2008, 31-43.

⁸⁹ OSCE/ODIHR 2007. Election Assessment Mission Report, Republic of Estonia, Parliamentary Elections, 4 March 2007. Available at <u>http://vvk.ee/public/dok/OSCE_report_EST_2007.pdf</u>

an information society where e-services (also Internet Voting) are required by a significant part of the electorate. Whilst formal equality can be provided, the questions of material equality and the issue of digital gap remain. In addition, complying with the principle of secrecy poses new obstacles for many countries. According to the teleological interpretation of the principle of secrecy privacy the voting act cannot be seen as an aim but as measure to guarantee freedom of voting; and the anonymity aspect of the principle of secrecy can be guaranteed. The analyze of the compliance of Estonian I-voting system with the United Nations International Covenant on Civil and Political Rights has given positive result, but emphasizes importance of special procedures to facilitate auditing and observation of I-voting.

Internet voting in concrete election is constitutional if the provisions of the law are actually fulfilled: only people entitled to vote can vote, e-votes given over Internet are recorded and counted properly, only one vote per voter shall be counted. Independent IT audit covering all aspects can prove the soundness of the system. The proper performance of the IT system shall be certified and audited before, during and after voting. The personal computer as well as the Internet remains a weak point of the whole system. The scholars are probably right while saying: "[a]lthough perfect real-time knowledge of all cyber threats is an impossible goal, it *is* realistic to do mach better at providing a richer, better integrated picture of our cyber security to the technologists, attorneys, and political leaders who will have to collaborate to avert the next cyber attack."90 The new threats and I-voting belong both to the information society.

8. Conclusion

We probably have to admit that the future generation would use information (incl information about politics) on the Internet. This generation would require wide range of e-services and among them e-enabled voting. Machine voting in the polling station would probably be important in countries where several electoral decisions are made on one and the same election. In some societies Internet voting will be required by the public. One single Election Day and paper balloting are probably going to stay in the past in these countries. This gives rise to the questions on equality: equal access to the electoral information, to the voting advice applications etc. Should the number of polling stations decrease significantly the concerns of digital gap would have a constitutional dimension. While the questions of secrecy of the voting can be solved by teleological interpretation the problem of scrutiny over all e-applications will remain. Therefore the proper audit and certification of e-enabled voting systems are the most crucial questions.

⁹⁰ Th. C. Wingfield, E. Tikk. Frameworks for International Cyber Security: the Cube, the Pyramid, and the Screen. –International Cyber Security. Legal & Policy Proceedings. Tallinn: CCD COE Publications, 2010, p. 21.

The status quo of e-voting in the year 2011

Gregor Wenda, Federal Ministry of the Interior, Republic of Austria

"Making democratic institutions work" (1) "Integrated Project" of the Council of Europe

Project from 2002 to 2004

□1st Exploratory Meeting on e-voting: 1-2 July 2002

UK Paper: "Urgent need for an internationally agreed set of standards on e-voting to guide member states; standards should embrace legal, technical and operational standards" Experts' meetings to be initiated (at least 1 lawyer, 1 technician)

"E-Voting Committee" (Ad-hoc group)

□13 Meetings from July 2002 to July 2004

UWorking groups on legal, operational, and technical standards

Austria: represented by Federal Ministry of the Interior, Federal Chancellery (Prime Minister's Office) and Federal Ministry for Foreign Affairs

Goal: Recommendation

"Making democratic institutions work" (3)

Recommendation Rec(2004)11

□Passed by experts in 2004

Adopted by Committee of Ministers on 30 September 2004

Relatively short text: 112 standards

Key messages (inter alia):

[□] "States should consider reviewing their relevant domestic legislation in the light of this Recommendation"

□No need to change domestic legislation "as long as these domestic voting procedures comply with all the principles of democratic elections and referendums

Additional Recommendations/Documents:

Committee of Ministers

Declaration on freedom of communication on the Internet (May 2003)

Recommendation Rec (2004)15 on "e-governance" (December 2004)

Declaration on Human Rights and the rule of law in the information society (May 2005)

"Good Governance in the Information Society" (1)

New Project from 2005 to 2010 (end)

E-Voting

Review Meetings of Rec (2004)11

Working on papers, evaluation reports, commentaries, etc. E-Democracy

Working Group CAHDE (Council of Europe's Ad Hoc Committee on e-democracy)

Recommendation Rec (2009)1 on e-democracy (adopted by Committee of Ministers in 2009)

"Good Governance in the Information Society" (2)
1st E-Voting Review Meeting
(23-24 November 2006, Strasbourg)
2nd E-Voting Review Meeting
(15-17 October 2008, Madrid)
3rd E-Voting Review Meeting

(16-17 November 2010, Strasbourg)

"Good Governance in the Information Society" (3)

2nd E-Voting Review Meeting

(15-17 October 2008, Madrid)

Conclusions

"(...)The Forum encourages the Council of Europe to maintain its prominent role in this important and complex field, thereby providing a platform for discussion and exchange of experience, and a standard-setting body (...). **Recent developments in the field of e-voting have shown that increased attention should be paid to certification and observation** to guarantee security and transparency and to build trust in the electoral process. (...)"

"Good Governance in the Information Society" (4)

Preparing the 3rd E-Voting Review Meeting

(2009-2010)

Focus on "certification" and "observation"

□ "Certification": 3 expert meetings in Strasbourg and discussions at E-VOTE Conference in Bregenz in July 2010

""Observation": 1 expert seminar in Oslo and discussions at E-VOTE Conference in Bregenz in July 2010

Close co-operation with OSCE/ODIHR

"Good Governance in the Information Society" (5)

3rd E-Voting Review Meeting

(16-17 November 2010, Strasbourg) Reports of countries and organisations

No official mandate for official conclusions or change of Recommendation (still considered useful instrument)

Presentation of non-binding documents supposed to supplement the

Recommendation

"Good Governance in the Information Society" (6)

3rd E-Voting Review Meeting

(16-17 November 2010, Strasbourg)

New Documents

"Guidelines on transparency of e-enabled elections"

Certification of e-voting systems - Guidelines for developing processes that confirm compliance with prescribed requirements

and standards"

□ "E-Voting Handbook" of the Council of Europe

"Good Governance in the Information Society" (7)

3rd E-Voting Review Meeting

(16-17 November 2010, Strasbourg)

Guidelines and Handbook:

 \square "(T)exts were met with great interest and were endorsed by the participants, who recognised that the guidelines provide a common reference."

["(F)ocus (...) on developing a politically feasible and economically viable approach rather than a theoretical or ideal

type model."

Delegations: "(G)uidelines need to be viewed as work in progress since the practical experiences in the field of e-voting are in constant evolution. Their format calls for and allows ongoing revision and extension."

"Good Governance in the Information Society" (8)

"Guidelines on certification of e-voting systems"

"Certification is an important tool in the establishment of trust"

Definition: "process of confirmation that an e-voting system is in compliance with prescribed requirements and standards and that it at least includes provisions to ascertain the correct functioning of the system" (no formal approach due to different concepts!)

Key Elements:

Regulation and Oversight

 \Box Selection of certification bodies

□Clear rules and guidance

"Good Governance in the Information Society" (9)

"Guidelines on transparency of e-enabled elections"

"Trust is needed to introduce e-voting; transparency is key element in building public trust"

□Visualise whole election process

Key elements:

Legal framework

Provisions for observers

access to documentation ("as much as possible")

Observation of testing

Training for observer groups

System requirements

"E-Voting Handbook"

□ For politics and administration to decide "whether or not to conduct e-voting pilots or trials or to make e-voting a feature of their electoral system"

Key elements:

principal points, general points, technical points to consider

different kinds of electronic tools

pre-electoral period, electoral period, post-electoral period (electoral cycle developed by IDEA in co-operation with European Comm.)

glossary

This paper does not set to argue either for or against the introduction of e-voting; it is designed to provide assistance and guidance to those who are considering to introduce it."

OCountries and e-voting (2011)

Not exhaustive!

• Armenia: plans for internet voting amongst diplomatic personnel

- Austria: Student Council elections in 2009 nothing since then
- Azerbaijan: shadow election during last parliamentary election
- Belgium: Thoughts about a new system; possible internet voting for Belgians abroad (Project)
- Bulgaria: draft law includes pilot of Internet voting (in 2009 test in 9 precincts)

• Czech Republic: 7 April 2008 "Memorandum on co-operation" between Interior Ministry and Statistical Office; recommendations and research of project group

• Denmark: discussion, academic pilot on municipal level

• Estonia: well-established; 24,3 % of all votes cast in March 2011, i.e.

140,846 internet votes (new record!)

Countries and e-voting (cont'd)

- Finland: no more plans since pilot in 2008
- France: machines in some municipalities; internet voting for Senate of French abroad
- Germany: no more machines
- Ireland: no machines, no other devices
- Latvia, Lithuania: no more steps ahead
- Netherlands: no more machines
- Norway: large-scale project for municipalities
- Poland: internal internet voting for parties; discussions but not plans

• Romania: work on electronic Electoral Management System (EEMS) -

"authentication, vote casting/counting"
—tests

• Russia: up to 10 % of polling places shall use optical scanners

• Switzerland: first time internet voting in parliamentary elections in 2011 (less than 5% of electorate can do e-voting inside the country; no limits from

abroad – Geneva, Neuchâtel, Basel-Stadt, Luzern, Aargau, Freiburg,Graubünden, St. Gallen, Schaffhausen, Solothurn, Thurgau → authorisation by Federal Government; Zurich stopped • United Kingdom: no more projects

Excursus:

European Citizens' Initiative

European Citizens' Initiative (1)

Article 11, paragraph 4, Treaty on European Union:

"(N)ot less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties".

European Citizens' Initiative (2) Regulation

3 parallel ways to participate ("to support")

isignatures on paper (consecutive list)

online (no electronic signature)

ponline (advanced electronic signature)

How to verify signatures? Dup to Member States (Austria: No "random sampling")

European Citizens' Initiative (3) How to support online?

Organisers need to set up an "online collection system"

 \Box A system is more than a software!

□ Supporting an initiative is no secret voting!

European Citizens' Initiative (4) Software

Commission's duty: "(T)o set up and make available to organisers an open-source software for the electronic collection of statements of support."

Exact requirements of the software are not defined yet.

□It has to incorporate the "relevant technical and security features necessary in order to comply with the provisions of this Regulation as regards online collection systems".

European Citizens' Initiative (5) Software

Article 6:

"By 1 January 2012, the Commission shall set up and thereafter shall maintain open-source software."

February, 2011: Commission started to carry out a study

"best practices"

Organisers will probably have to adapt the software anyway and seek support by system developers and providers.

European Citizens' Initiative (6)

Verification of signatures Paper form Electronic form with advanced electronic signature

□without advance electronic signature

Exact interpretation of the 2nd sentence of Art. 5, para. 2, unclear:

"For the purpose of this Regulation, statements of support which are electronically signed using an advanced electronic signature, within the meaning of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures, **shall be treated in the same way as statements of support in paper form**."

European Citizens' Initiative (7)

Article 6 (Online collection systems) & Annex IV

"Competent authority to certify that the **online collection system** used complies with the Regulation and to issue a certificate according to Annex IV of the Regulation."

Experts knowledgeable about IT and data protection will have to be involved!

Questions to the Workshop Members

What is the situation in other countries?

Will the economic crisis stop e-voting developments?

Can we learn from ECI experiences for e-voting?

Does e-voting have a future?

E-Voting - How to tackle concerns and to maintain trust?

Ardita Driza Maurer, Section des droits politiques, Chancellerie fédérale ChF

A Swiss perspective

I. Swiss specificities : federalism and direct democracy

Switzerland is a federal state composed of 26 states (cantons). Power and decision making is as centralized as necessary and as decentralized as possible. It is a direct democracy as well: people are empowered to oppose a law passed by parliament by calling a referendum which will lead to a referendum vote if the referendum proposal is accepted by 50'000 voters ("brake") and to make legislative proposals by launching an initiative which must be decided in a referendum vote if the proposal gains the support of 100'000 voters ("accelerator"). The same rights (referendum, initiative) also exist at cantonal and even local (communal) level: time allowances for collecting signatures and signature thresholds vary in between cantons and communes.

It is also known that Swiss procedures of direct democracy are user- and citizen-friendly. Signature collection can be organized everywhere and deadlines for collecting signatures are rather long (100 days for a referendum and 18 months for an initiative at federal level). Citizen-friendliness is also central to the voting process. In addition to polling station vote and unrestricted postal voting, a third additional channel is being gradually introduced: internet voting.

A well designed direct democracy as practiced in Switzerland builds up mutual trust between citizens and authorities and helps to strengthen social cohesion. An example of such mutual trust is distant voting (voting from an uncontrolled environment): authorities trust the voters that voting will remain personal and secret, and, on the other side, voters trust their authorities and the way postal and internet voting are organized.

II. Introduction of e-voting

Future development of direct democracy is at the heart of the introduction of e-voting – an impetus which came from the federal Parliament at the end of the 90'ties. The other main reason was citizen-friendliness: ensuring an efficient voting channel to Swiss abroad (disfranchised by postal delays) and sight-impaired people.

E-voting has been introduced since by cantons in a gradual way during federal referendum votes (referenda and initiatives). Federal government authorization is needed when e-voting is meant to be used for federal votes. Up to now e-voting has been limited to 10% of the federal electorate and 20% of the cantonal electorate in certain cases. The number of cantons who have introduced it has notably increased going from three (the pilots of Geneva, Neuchâtel and Zurich) in 2005 to thirteen today (May 2011). Almost 5% of the federal electorate has currently the possibility to use e-voting.

E-Voting - How to tackle concerns and to maintain trust? A Swiss perspective 2/3

Furthermore e-voting is planned to be used, for the first time in October 2011, during federal elections (National Council).

The federal Government's point of view has constantly been the following: e-voting is a complex system, involving numerous actors at different levels and a step-by-step realization is needed.

Such approach enables experiences to be gathered and implemented with a view to pursuing the development of e-voting. A prudent approach is also necessary in order to reduce risks as much as possible. E-voting can only be generalized (across the board) when all actors – voters,

politicians, researchers and the authorities - have accepted the new procedure and have confidence in it.

III. E-voting : main concerns

Three types of concern are frequently brought up in relation to the current status of e-voting. i. More e-voting Cantons are responsible for introducing and operating e-voting. Some of them, especially the more e-voting-advanced ones, often come up with the idea of an expansion of e-voting beyond the current limitations. The request is motivated by financial as well as citizen-friendliness arguments.

According to them an e-voting system which can be used by only 20% of citizens at cantonal level is financially unsustainable. It is also becoming increasingly difficult for them to explain citizens of one commune why they cannot be offered e-voting whilst the neighboring commune can.

Swiss abroad lobbies as well as some national politicians have also been in favor of a generalization of e-voting, especially for expatriates.

ii. Better e-voting

On the other side several critical voices, mainly from the academic area, sustain the idea that better e-voting solutions providing full transparency already exist and should be used instead of the current systems. These constructive critics talk about a second generation of e-voting systems.

They are represented by the e-voting group of researchers of the Berner Fachhochschule1supported by professors of Fribourg and Lausanne Universities and researchers of the Swiss federal institute of technology Zurich.

iii. No e-voting

There also exists radical opposition to e-voting. It crystallized in an attempt to forbid all e-voting which took place in the canton of Vaud (Lausanne). A motion "E-voting is dangerous to democracy – let's stop the expenses"2 signed by representatives of almost all political parties represented at the cantonal Parliament asked for a total banning of e-voting. The main arguments which were advanced were related to transparency, security and secrecy of e-voting as well as to privatization of voting and trivializing of the act of vote.

A federal parliamentarian representing the canton of Vaud in the Council of States also joined the group of e-voting opponents. He introduced a parliamentary interpellation "Democratic threats inherent to e-voting"3 expressing concerns about the security and controls of e-voting systems.

IV. Dealing with concerns and maintaining trust

The federal Government, in particular the federal Chancellery who is in charge of e-voting, has the following approach of concerns: openness, consideration of arguments and search for solutions.

In order to better take into account cantonal demands with respect to further development and enlargement of e-voting, a new coordination body, a steering committee composed of cantonal and

1 http://e-voting.bfh.ch/

2 Motion Schwaab, http://www.vd.ch/fr/autorites/grand-conseil/seance-du-8-fevrier-2011/motion-jean-christophe-schwaab-levote-

electronique-est-dangereux-pour-la-democratie-arretons-les-frais/

3 http://www.parlament.ch/f/suche/pages/geschaefte.aspx?gesch_id=20103251

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federal representatives and directed by the federal Chancellor, has been created. This political body is meant to meet periodically to monitor developments, to define proposals which will then be extended to the federal government and to make sure that the ambitious objectives, which were lastly restated in a strategy paper (roadmap) prepared by the federal Chancellery and adopted last April by the conference of cantonal chancellors, will be achieved.

Since September 2009 Swiss abroad have been excluded from the quota limitation: as soon as a canton decides to introduce e-voting, all its Swiss abroad can be offered the new channel (13 cantons over 26 have already introduced e-voting for Swiss abroad).

Improvement proposals made by researchers have given rise to a closer cooperation of the federal Chancellery with the academia (Swiss federal institute of technology and Berner Fachhochschule).

Two particular areas of e-voting are being investigated more closely: the client (in)security and end to-end verifiable voting solutions.

The fears of opponents are taken seriously. In addition to the explanatory efforts, the accent is put into enhancing security and transparency and thus improving trust in the new voting channel. This is at the center of ongoing and future work on e-voting (federal group on e-voting and its subgroups).

V. Conclusion

Envisaging to extend or even abolish existing limitations on e-voting and finding solutions to enhance security and transparency to appropriate levels – this is the challenge that the federal Chancellery and cantons are now facing.

In fact, in addition to achieving the objective of offering e-voting to all Swiss abroad at the 2015 federal elections, the federal Chancellery and the federal group on e-voting also foresee to deliver to the federal Government by 2013 a third report on the evaluation of e-voting which is meant to contain also clear proposals for the future development and extension of e-voting.

Achieving such an ambitious objective requires excellent cooperation between the involved stakeholders, a fine evaluation of past experiences and an important effort to find optimal solutions in cooperation with experts and research.

Election Observation of New Voting Technologies

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Election Observation of New Voting Technologies





Content

- Standards
- Reasons
- Context
- Secrecy of the Vote
- Certification/Training
- Observation
- Further Areas of Concern



Election Observation of New Voting Technologies 2

Definition

Voting Technologies:

"using tools for conducting elections" Examples: *pull-lever-machines*, *mechanical registers*.

New Voting Technologies:

"voting technologies <u>making use of information and communication</u> <u>technologies in casting, counting, and tabulating votes</u>" Examples: *electronic voting machines, Internet voting procedures,* but also *electronic poll books, tabulation and election information systems.*

 Note: CoE Rec(2004)11: uses a narrower definition of e-voting: "electronic means in at least the casting of the vote"



Election Observation of New Voting Technologies 3 3



ODIHR Experience To Date

- Meetings
 - Supplementary human dimension meetings 2004, 2005
 - Chairmanship meetings Brussels 2006, Helsinki 2008 & Vienna 2010
- Discussion Paper
 - Chairmanship Non-Paper 2005
 - Two expert meetings in 2006, 2007
 - Discussion paper on NVT in 2008
- Missions
- 14 mission with NVT analysts: Belgium (2006, 2007), Bulgaria (2009), Estonia (2007, 2011), France (2007), Kazakhstan (2004, 2005, 2007), Netherlands (2010), and the United States (2004, 2006, 2008, 2010)

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Standards

- Council of Europe Recommendation on Legal, Technical and Operational Standards on Electronic Voting
- OASIS Election Markup Language (EML)
- Protection Profiles (Gesellschaft f
 ür Informatik)
- Several national standards: VVSG,



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Forms of Electronic Voting



Kiosk Voting

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Overview

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Reasons

Voter	Administration	Politicians
Increasing voter mobility	Count quicker and more reliable	Inclusion
Support for the voter in casting the vote	Improve voter register	Innovation
Increase accessibility for handicapped voter	Reduce costs on the long run	Change in the electorate (+/-)

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Secrecy II

- Controlled Environment: Electronic Voting Machines having separate machines/applications for identification & vote casting
- Uncontrolled Environment: Remote Electronic Voting
 Cryptographic Algorithms to establish anonymity
 - Pre-voting: random numbers
 - During voting: separate servers
 - Post-voting: double-envelope



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Certification

- Ex-ante anaylsis of systems against norms and standards by competent national bodies
- Happening within a framework (regulation, evaluators)
- Non-disclosure Agreement
- Valid for certain period (incl. possibility for de-certification)
- Needs extended period of time
- General availability of results
- Purpose of "Certificate" to check which version of a software is able to fulfill the requirements of a norm

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Legislation

- Needs to cover all the steps of the whole electoral process
- Same treatment for electronic voting channels as for paper based channels
- Adding accountability to the process



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Training

- IT literacy needed by
 - <u>Election Management Bodies</u> to operate
 internal training
 - <u>Voters</u> to use the system to cast votes
 => Voter education programs



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Observation I

- Analysing process
- Principle of Non-Interference
- Transparency is a key challenge
- Access to documentation might not be sufficient (translation)
- Longer observation (certification, deployment, safeguards) esp. with Internet voting
- There are crucial aspects which cannot be directly observed (electronic security, secrecy of ballot, ...)



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Observation II

- Voter-Verifiable Paper Audit Trails are only useful with a meaningful number of recounts
- Should e-voting be implemented in countries with distrust in election administration?
- Role of vendors
- STO must be briefed on issues of EVM
- New role of "NVT Analyst" in core team



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Summary

- Proportionality?
- Role separation, principle of non-interference
- New Voting Technologies can be applied in many ways
- While they are new they still have to fully fulfill the existing commitments and standards
- Not a uniform trend, it is not a must
- Trust needs to be established by maximum transparency



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Looking at the debate on electoral fraud

Hector Davalos, Electoral Court of the Federal Judiciary of Mexico

Thank you Mr. Chairman:

Today I will address certain questions about electoral fraud in order to state the distinctions between irregularities and generalized fraud leading to the invalidation of an election. To deal with these issues, my presentation will be divided as follows: First, I'll state the different forms that electoral fraud can take. Then, I will address general issues regarding safeguards to prevent electoral fraud. Thirdly, I will talk about other types of fraud which are difficult to quantify in terms of their effects on individual votes. Finally, I will present the general questions that could lead to the annulment of an election in Mexico, with the intention of exemplifying the differences between an election that has to be declared void and infringements that can be individually sanctioned and controlled.

I would like to emphasize that not all alleged election irregularities are of equal importance in an election contest. Fraud by election officials is the most flagrant irregularity and commonly the most likely to prompt redress or remedy.⁹¹

Evidently, fraudulent ballots or votes should not be counted, but there is a great diversity of forms that fraud can take:

- 1. Adding illegal ballots or removing legal ballots to favor a candidate or party;
- 2. Purposefully allowing unqualified voters to vote;
- 3. Voting or allowing voting more times than permitted in an election;
- 4. Falsification of the voter I.D. in countries where this type of document is needed to vote (in Mexico this document is needed to cast a vote);
- 5. Interfering with existing ballots or the counting of those ballots to increase the net vote for a candidate or party;
- 6. Obstructing electronic voting or tampering with vote-counting equipment to give false returns favorable to a candidate or party;
- 7. Marking another voter's ballot (without authority) in favor of a candidate or party (for example, marking ballots for elderly or disabled voters);
- 8. Unlawfully refusing to allow qualified persons to vote for the candidate of their choice (including terrorism or intimidation);
- 9. Illicit financing of political parties or campaigns;
- 10. Illegally voting absentee ballots; or
- 11. Giving money or other value for a vote on behalf of a candidate or party.⁹²

Security measures should exist by law to safeguard against the possibility of someone altering ballots or adding or removing ballots once they have been cast. International principles have tried to uphold these types of measures. For example, guideline 3.2 of the *Code of Good Practice in Electoral Matters* of the Venice Commission states the actions to combat electoral fraud. This guideline clearly establishes that voting procedures must be simple and that there should always be the possibility for voters to vote in a polling station. However, other means of voting like postal, electronic or proxy voting are possible, but should only be used under strict rules and only where it is safe and reliable in order to avoid fraud. There are other measures stated in this guideline that are also practiced in Mexico:

a) At least two criteria should be used to assess the accuracy of the outcome of the ballot: the number of votes cast and the number of voting slips placed in

⁹¹ Steve Bickerstaff, "Contesting the outcome of elections", in John Hardin Young (editor), *International election principles: Democracy and the rule of law*, USA, American Bar Association, 2009, p. 319.

⁹² Idem.

the ballot box;

- b) Polling stations must include representatives of a number of parties; and the presence of observers, where appointed, must be permitted during voting and counting;
- c) Counting must be transparent and should preferably take place in polling stations;
- d) The State must punish any kind of electoral fraud.⁹³

Adherence to these safeguards for ballot protection is essential to an election contest because the outcome of the contest may depend on the examination of these original ballots. Some forms of fraud can be detected by comparing the number of ballots cast at a polling station with the number of voter registrations at the station.

Nonetheless, even though fraud is always a serious matter in any election, fraud in itself will not always be sufficient cause to annul an election unless the complainant can show at least the likelihood that the fraud affected the outcome of the election. Here is where the labor of an electoral court or tribunal, and of the judges themselves, is fundamental. There should be a clear distinction between an irregularity and fraud leading to annulment of an election.

Many types of irregularities can be deemed insufficient by an arbiter to provide a basis for redress in an election contest. This is because some of these are **alleged violations of laws that affect election outcomes only indirectly**, such as infractions during campaigning (campaign finance for example) or infringements regarding media access. These types of irregularities are sometimes difficult to prove in the time allowed for an election contest and, moreover, the actual effect of such irregularities on the vote is largely unknowable.⁹⁴ This is what happened after the 2006 federal election in Mexico, where the Electoral Court of the Federal Judiciary, after ordering the recount of several polling stations, nullified the voting in a few of these stations but refused to annul the general election because alleged irregularities were either not substantiated or had been corrected before affecting the process. Therefore, there was not enough proof that these alleged violations could have affected the general outcome of the election. The manner in which these irregularities affect the vote of the people is very difficult to quantify in terms of suffrage. However, these irregularities prompted legislators to make substantive changes in our electoral system.

Among other amendments, the **Constitutional reform of 2007** made the Regional Chambers of the Electoral Court permanent, granted the Electoral Court the authority of constitutional review in electoral laws that may contravene the Constitution, determined that the Federal Electoral Institute (IFE) would be the only authority that would administer public access to the media for candidates and parties, prohibited blasphemy and defamation in electoral campaigns, and stated that the chambers of the Electoral Court can declare the annulment of an election but only when this is expressly founded under the provisions of law.

In Mexico, the **causes of annulment of a federal election** are clearly stated in articles 75 to 78 of the Law of Electoral Dispute Resolution. These include the presence of irregularities in a determined percentage of polling stations, like the suffrage of people unqualified to vote or without a voter I.D., interference with ballots or the counting of those ballots to influence the voting results, prohibition of the presence of party representatives in polling stations without a justified reason, or unlawfully refusing to allow qualified persons to vote, to mention some of the most flagrant legal violations. In elections of federal representatives by majority, these are declared void if the aforementioned percentage surpasses the presence of irregularities in at least 20% of the polling stations in a district; if at least 20% of the polling stations are not installed and, consequently, voting is not received; and if candidates that have obtained the majority of votes are ineligible. The same rules apply for the invalidation of elections of senators, only that the percentages are measured within a state rather than within a district. For the annulment of a

⁹³ Venice Commission, *Code of Good Practice in Electoral Matters: Guidelines and Explanatory Report*, adopted by the Venice Commission at its 52nd session, Venice, 18-19 October 2002.

⁹⁴ Bickerstaff, *op. cit.*, p. 320.

presidential election, the percentages are 25% both for the presence of irregularities in polling stations and for the quantity of stations that should not remain uninstalled in the whole territory of our country (rather than in a district or a state).

These legal precepts try to avoid that non-transcendental violations annul the result of an election, assuring the defense of political rights of citizens under the aegis of the Constitution.

Thus, it is important to consider that even though fraudulent votes cannot be included when determining the will of the electorate, fraud which does not affect the election outcome might not invalidate an election if it is not pervasive or all-encompassing.⁹⁵

Thank you very much.

⁹⁵ See Barry H. Weinberg, *The resolution of election disputes: Legal principles that control election challenges*, Washington, D.C., IFES, 2008, chapter 4.

Fraudes et prévention de fraudes

M. Nguyen Huu Dong United Nations Development Programme in Mexico

D'une façon générale, la fraude désigne une violation délibérée des dispositifs de la Loi Electorale afin de changer les résultats électoraux pour avantager ou pour porter tort à un candidat.

Cette définition permet de distinguer la fraude des erreurs, des accidents, des insuffisances, des incompétences ou des infractions à la procédure électorale. Néanmoins, dans la pratique, une telle distinction n'est pas toujours facile à établir en ce sens qu'elle implique une analyse fine et toujours difficile à documenter, de l'intention des responsables.

Le caractère délibérément légal de cette définition permet aussi de tracer une frontière entre la fraude et la manipulation électorale. Dans certaine législation, cette dernière (on pense à l'achat et la vente des votes, les pressions communautaires sur le vote, les tentatives de changer le sens des votes par des campagnes de propagandes etc.) peut être mise hors la loi lorsqu'elle dépasse certaines limites, mais le point est délicat. En comparant les législations on s'aperçoit très vite que les mêmes manipulations sont parfois illégales (et donc assimilées à la fraude) et parfois légales. Il est donc indispensable de se référer à la loi électorale pour assurer une certaine cohérence de l'approche.

Un bureau de vote qui ouvre plus tard que l'heure précisée par le Code électoral n'est pas une fraude en soi, mais si c'est une pratique généralisée et délibérée afin d'empêcher les électeurs dans une circonscription particulière d'aller voter pour son candidat (à supposer que les choix des électeurs soit plus ou moins connu à l'avance), oui, ce serait une fraude.

Lorsque tous les candidats sont affectés en même temps (perte par exemple d'une cargaison de bulletins), la faute ou l'incompétence est manifeste. Mais si ces fautes ou « accident » affectent un seul candidat, la fraude serait envisageable. De toutes les façons, il faut souligner deux autres aspects fondamentaux lorsque l'on évoque la fraude électorale: le premier, c'est la nécessité de la prouver de manière rigoureuse, le second, c'est de voir sa dimension. Une fraude (prouvée) dans 1 bureau de vote sur 100.000, n'affecte pas de manière significative les résultats d'ensemble. D'ailleurs, sur ce point, les fraudes qui sont significatives sont celles qui changent les résultats définitifs tandis que les autres ne font qu'enrichir les archives des tribunaux électoraux.

Cette note ne vise pas à donner la liste exhaustive des fraudes possibles. Elle vise à clarifier certains problèmes en discussion, problèmes d'autant plus intéressants qu'ils affectent la quiétude de plusieurs élections récentes dans plusieurs parties du monde.

Pour cela, il semble utile non pas de parler de fraude en générale, mais de fraude au niveau des différentes phases les plus importantes du processus électoral.

1. Fraude au niveau de la liste électorale

Le premier pas de toutes opérations électorales est celui de déterminer qui, sur une population déterminée, a le droit de vote et qui ne l'a pas. A ce niveau, on doit insister de nouveau sur l'importance de la Loi Electorale car c'est elle qui détermine les conditions juridiques permettant la réalisation des droits civils et politiques des citoyens d'un pays. Il suffit de penser aux droits politiques ou électoraux des prisonniers, des citoyens résident à l'étranger ou plus simplement l'âge minimum pour le vote. On assume bien entendu que tous les pays qui analysent la fraude électorale ont adopté la Charte des Nations Unies et les documents fondamentaux que sont par exemple la Déclaration Universelle des Droits de l'Homme, documents qui font du suffrage universel un impératif strict mais qui n'indiquent pas les solutions aux problèmes évoqués cidessus.

A partir de la Loi donc, il serait possible d'établir une liste électorale dont la fonction est double : la première, c'est d'identifier avec rigueur l'identité des personnes ayant le droit de vote. Cette identité est personnelle (âge, sexe) et s'accompagne aussi de renseignements concernant le lieu de résidence (adresse etc.) permettant de la situer.⁹⁶ Cette dernière information permet à la liste électorale de remplir sa deuxième fonction, celle de répartir les électeurs et électrices dans des bureaux de vote proches de leur lieu de résidence. En ce sens, il y a une promotion de la participation citoyenne et une meilleure distribution du matériel électoral. Il faut souligner que dans de nombreux cas ou le temps et les instruments juridiques nécessaires font défaut (Afrique du Sud en 1994), l'absence de la liste électorale ne constitue pas, en soi, un obstacle insurmontable à l'organisation des élections.

Ceci étant dit, la fraude à ce niveau peut prendre deux formes : celle de l'inclusion des personnes qui n'ont pas le droit de vote (définis comme tels dans la Loi électorale en vigueur), ou qui n'ont pas le droit de voter dans un endroit déterminé (émettre un vote hors de la circonscription où la personne habite) et celle de l'exclusion des ayant droits de la liste électorale.

1.1 L'inclusion des personnes n'ayant pas le droit de vote.

L'exemple le plus connu de cette forme de fraude est celui documenté par les autorités françaises en l'an 2000 lorsque des milliers de non ayant droit (étrangers, résidents d'autres circonscriptions etc.) se sont inscrits pour voter dans la mairie du Vème arrondissement de Paris.

Dans de nombreux pays, on parle aussi d'inscription des émigrés ou des personnes décédées. Cette inclusion indue peut ouvrir la voie à une fraude si *a*/ces inscrits votent et si *b*/ces votes bénéficient à un candidat particulier. En soi, elle peut simplement être la preuve d'incompétence ou d'insuffisance technique (absence de relation entre la liste électorale et le registre civil (à supposer que ce dernier existe ou qu'il soit fiable, ce qui n'est pas toujours évident) incapacité de recueillir et de traiter les informations sur les mouvements naturels de la population et de les ajuster avec la liste électorale etc.). On trouve en effet de multiples exemples où l'importance des décès ou de la migration rend difficile voir impossible l'épuration systématique de la liste électorale avant le vote.

A cette forme de fraude, on ajoutera celle de la double ou triple inscription (la même personne s'inscrivant deux ou trois fois). Certains moyens techniques sont disponibles pour bloquer de façon efficace cette forme de fraude, telle une base de données centralisée (le cas de l'Afghanistan en 2004-2009). Ici, il suffit de retenir que s'il existe des techniques relativement fiables pour prévenir le double vote il n'y a pas de techniques sûres à100% pour empêcher ce genre d'inscription multiple, comme il n'y a pas de manière d'empêcher la fabrication de fausses cartes d'électeurs.

1.2 L'exclusion des personnes ayant le droit de vote.

La seconde forme de fraude au niveau de la liste électorale est l'exclusion des personnes qui ont le droit de vote. Ici, il peut s'agir de deux cas de figures. Le premier est une inscription automatique des personnes en âge de voter sur la liste électorale par le biais du registre civil (Espagne, France, Costa Rica...). Le second est une inscription volontaire, plus poreuse en quelque sorte car elle n'atteindra jamais un taux de 100% de la population en âge et en droit de voter. Dans les deux cas, toutefois, la suppression délibérée ou l'omission provoquée et intentionnelle d'un nom dans la liste électorale,(si l'inscription dans cette dernière est une condition pour voter), constitue un déni de droit grave et peut être assimilé à une fraude si elle porte sur un nombre significatif de personnes ou sur des personnes possédant un grand poids

⁹⁶ Il n'est pas évident que tous les pays acceptent cette nécessité d'identifier les votants comme allant de soi. Aux Etats-Unis, certains états ont tenté d'introduire l'obligation de présenter un document d'identité (permis de conduire etc..) avant d'accorder le droit de vote, soulevant de longues polémiques sur le disfranchisement.

auprès de la communauté (parmi ces dernières, les formateurs de l'opinion publique, les dirigeants des partis politiques, les autorités religieuses, les responsables syndicaux etc.)

2. La prévention de la fraude au niveau de la liste électorale.

2.1 Pour ce qui est de l'inclusion indue, les mesures préventives sont à la fois structurelles et en aval du processus. En terme structurel, il s'agit bien entendu de fabriquer un registre civil s'il n'existe pas, d'améliorer son fonctionnement s'il existe. Il s'agit aussi d'actualiser le plus que possible la liste électorale à travers d'une institution spécialement chargée de cette fonction. Cette actualisation doit donc être permanente et non fonction du rythme électoral.

En aval du processus, il s'agit bien entendu d'empêcher que la double inscription ne se transforme en double vote, que les non ayant droits puissent voter pour un candidat déterminé. En effet, il n'y a pas de **transformation inéluctable de la double inscription en un double vote**. Or, c'est ce dernier qui est important et non le premier. Il s'agit du même problème avec les cartes d'électeurs. Une personne peut s'inscrire plusieurs fois (et posséder plusieurs cartes) mais si elle ne vote qu'une seule fois, il n'y a pas d'effet sur les résultats. Le tout est de s'assurer que **le vote est unique**. On connaît la fonction indispensable que joue à ce niveau l'encre indélébile comme moyen économique et sûr pour empêcher une personne de voter plusieurs fois. Encore faut il s'assurer que l'encre est de bonne qualité, que les autorités électorales veillent à l'utiliser, que les responsables des bureaux de vote vérifient les doigts des votants avant le vote et que les mandataires des partis ou les représentants des candidats dont le rôle est plus que crucial, constatent et soient convaincus que la procédure prévue pour l'emploi de l'encre est respectée.

Pour ce qui est de la qualité de l'encre, il faudrait par exemple que l'autorité électorale organise des tests publics (en présence des journalistes de la TV, la radio ou la presse écrite) au cours desquels les représentants des partis politiques pourront essayer les différents produits proposés, utilisant tous les moyens disponibles pour enlever l'encre dans les délais correspondants à la journée électorale. Une campagne d'information massive pourrait suivre pour montrer le caractère effectif de l'usage de cette encre.

Dans certain pays (Bolivie/Haïti), la circulation des véhicules individuels ou collectifs est rigoureusement réglementée et réduite le jour du vote. C'est une autre forme de dissuader les votes multiples.

Mais il faut revenir sur une vérité simple : l'encre n'est pas magique et n'est efficace que si elle est utilisée par les responsables des bureaux électoraux, que ces derniers nient aux votants le droit de revoter lorsqu'ils sont marqués par l'encre. Aucune prévention n'est en fait imaginable si ceux et celles qui sont chargées de l'application de la Loi électorale ne la respectent pas.

Pour ce qui est de l'emploi de fausses cartes, le problème reste le même : si la personne a le droit de voter et qu'elle vote avec une fausse carte, elle n'aura pu voter qu'une seule fois. Si elle n'a pas le droit de voter, l'absence de son nom sur la liste électorale permet aux autorités de l'écarter du vote. Encore une fois, si ces dernières acceptent le faux et l'usage de faux, aucune mesure préventive ne sera efficace.

2.2 Pour **l'exclusion** de certaines personnes de la liste électorale, on peut envisager plusieurs types de mesures. Au cours de la campagne d'inscription, elle-même précédée d'une campagne systématique d'information sur le droit d'inscription, sur la nécessité de le faire, les autorités électorales peuvent mettre en place un système d'alerte que la population peut activer. Elle peut aussi demander la collaboration des observateurs nationaux pour lui signaler les cas douteux comme elle peut organiser les enquêtes sur échantillon afin de vérifier in situ la qualité de l'inscription.

Après la première inscription, les autorités électorales peuvent publier une liste électorale provisoire et laisser un délai raisonnable pour que la population puisse réviser la liste, la

contester avant rectification et publication de la liste définitive. Une telle liste provisoire peut aussi être remise à tous les partis politiques engagés dans la compétition électorale dans les mêmes délais afin de leur permettre de faire les contestations nécessaires.

Rigueur et intégrité des autorités électorales, participation active des acteurs de la vie politique et sociale et transparence extrême, telles sont les principales mesures de prévention de la fraude dans le domaine de la liste électorale.

3. La fraude possible lors du vote.

La liste est longue des pratiques frauduleuses le jour même où les citoyens et citoyennes se présentent devant le bureau de vote. Certaines sont sérieuses, d'autres sont anecdotiques et font partie du folklore du monde des observateurs électoraux. Avant d'en dresser la liste, il faut rappeler encore une fois la prudence et la raison. Certaines pratiques viennent de la situation difficile et tant qu'on n'a pas prouvé l'intention de nuire, il serait plus sage d'éviter de parler de fraude. Un exemple en dix : le jour E, le bureau de vote a changé d'emplacement, provoquant une recherche épuisante des électeurs, l'abandon de certains et la colère de tous. Cela est il dû à une volonté délibérée des autorités électorales de mystifier les électeurs dans une circonscription particulièrement favorable à un candidat déterminé ou est ce qu'au dernier moment, le propriétaire de l'édifice, devant un risque possible de conflit, leur nie l'accès?

Le bourrage des urnes (avec des bulletins d'un candidat choisi et protégé s'entend) est une pratique simple et connue, toujours efficace quand ce sont les autorités en charge du bureau qui le fait, en toute impunité et en absence de témoins. Lorsque les bulletins sont individuels (cas de la France par exemple), le bourrage s'accompagne parfois de destruction des bulletins de vote des autres candidats. Lorsqu'ils sont collectifs, il n'est pas exclu qu'ils soient pré-marqués et qu'ils soient introduits illégalement dans l'isoloir et de là dans l'urne. Dans la discussion sur le choix du bulletin, soit individuel (chacun des candidats possèdent un bulletin à lui seul) ou bulletin collectif (tous les candidats se retrouvent sur le même bulletin), on tiendra compte de cet aspect du problème : quel est le bulletin qui constitue un instrument le plus efficace pour prévenir la fraude?

L'achat des votes (dans certains pays, la vente du vote est légal pas l'achat), la pression sur les électeurs, l'intimidation ou la violation du secret de vote (présence d'une personne autre que l'électeur dans l'isoloir) sont des pratiques également connues mais ne constituent pas comme telles, des fraudes. Ce point a été soulevé plus haut et désigne plutôt le problème de la manipulation du vote. Ce qu'il faut préciser ici, c'est que *la fraude est d'abord une pratique rendue possible par la complicité active ou passive des autorités électorales, que ce soit avant, pendant ou après le vote, au moment du comptage des voix.*

4. La fraude au niveau du comptage.

On distinguera la fraude et la perception d'une fraude.

C'est peut être au niveau du comptage des votes, et surtout au moment de la sommation des votes qu'il est plus facile de manipuler les résultats. En effet, au niveau du comptage immédiat après la fermeture des bureaux, les votes sont comptés publiquement et les résultats sont affichés. (Ces dispositifs de toutes les lois électorales en vigueur peuvent bien entendu être violés par les responsables du bureau de vote, tous complices d'une même cause, et en l'absence de témoins impartiaux ou des représentants des partis politiques ou ceux des candidats)

Avec des ordinateurs, la sommation se fait rapidement mais avec le risque d'une introduction illégale d'un algorithme qui pourra changer les résultats. Les procès verbaux portant les résultats peuvent également être trafiqués, entraînant des distorsions favorables aux candidats choisis. Sur ce problème hautement technique, il est vrai que les autorités électorales devraient d'une part faire appel aux techniciens les plus qualifiés, mais aussi formes les techniciens des partis

politiques pour les aider à détecter les manipulations indues. Dans certains pays, les résultats bureau de vote par bureau de vote sont envoyés en temps réel sur Internet, ce qui permet à tous les partis politiques de vérifier leur sommation. Avec l'usage massif du téléphone cellulaire, on peut aussi penser à réduire les comptages frauduleux dans la mesure où les photos des résultats affichés dans les bureaux de vote peuvent être instantanément envoyées aux sièges des partis en campagne.

On doit également noter au passage que la pratique de plus en plus fréquente des observateurs mais aussi des autorités électorales est de pratiquer un **comptage rapide** sur un échantillon représentatif de bureaux de vote (avec des résultats réels et non les déclarations à la sortie du bureau). Ce comptage rapide, faite avec rigueur, est assez fiable surtout si l'écart entre les candidats est grand.

Il faut pourtant informer davantage le public en général et les partis politiques en particulier des limites et des fonctions de ce mode de comptage. En effet, il s'agit d'abord de disposer de tendances lourdes des résultats réels. Là où les résultats publiés s'écarteraient trop des résultats donnés par le comptage rapide, les autorités électorales (et les observateurs) pourraient entreprendre une enquête précise. Il faut également souligner que ce comptage par échantillon n'est valide que dans une circonscription (pour les élections présidentielles, le pays entier est une circonscription) et qu'enfin, il faut toujours présenter à l'avance les marges d'erreur du calcul. Quand cette marge (qui se réduit proportionnellement avec la taille de l'échantillon) se rapproche de la marge séparant les deux candidats en tête du suffrage, il est préférable de ne pas publier les résultats provisoires et attendre les résultats officiels. Enfin, il faut insister sur le fait que les autorités électorales sont les seules qui puissent donner les résultats finaux et officiels.

Quant à la perception de la fraude possible, elle provient souvent du désordre constaté dans le comptage (fait en pleine nuit, sans lumière et dans le désordre) ou par le fait que les autorités électorales tardent des semaines entières avant de donner des résultats. Certes, dans les continents comme l'Inde ou l'Indonésie, ce retard est accepté comme normal ce qui n'est pas le cas pour une population de votants de 4 millions de personnes. Il s'agit là d'un problème d'organisation complexe, celui qui permet d'obtenir dans un délai minimum des résultats les plus sûrs et les plus incontestables possibles. Ici aussi, le rôle des autorités électorales est crucial. L'usage de plus en plus fréquent du vote électronique lequel permet d'obtenir des résultats presque immédiats dès la fermeture des bureaux de vote peut contribuer à réduire les délais d'obtention des résultats, mais son introduction pose d'autres problèmes dont ce texte ne tente pas de clarifier.

5 En guise de conclusion.

Au cours des dernières années, la fraude électorale est redevenue un thème d'actualité. De la Géorgie à la Côte d'Ivoire, de l'Afghanistan en Haïti, pour ne citer que quelques pays qui ont fait les gros titres de la presse mondiale, les conflits pot-électoraux ont toujours eu comme origine les accusations (souvent réciproques) d'élections truquées, de résultats manipulés. Ce qu'il faut noter, c'est que ces accusations sont souvent d'ordre très général et mêle aussi bien les insuffisances de l'administration électorale que la manipulation (vraie ou non) du vote.

Ce texte vise simplement à distinguer les différents moments cruciaux du vote et permet de préciser à la fois le lieu de la fraude (liste électorale, le moment du vote, les résultats) et les responsables de cette fraude. C'est en le faisant qu'il serait possible de prévenir et éventuellement de sanctionner cette fraude.

Le parti pris est, une fois de plus, celui de prendre comme fondement de l'analyse de la fraude la législation électorale nationale. Les principes universels sur le suffrage, le secret du vote individuel ou la liberté de vote (et d'être élu) sont trop généraux pour constituer des standards par rapport auxquels on pourrait prétendre à qualifier des élections dites « justes et libres ». On

s'aperçoit d'ailleurs dans la pratique que si certaines sont justes, elles ne sont pas nécessairement libres. Mais c'est un problème sur lequel devront se pencher les juristes.

Pourquoi eux ? Parce que dans sa totalité le processus électoral est un produit de la loi (nationale). Il faut bien se référer à cette loi pour définir le droit à voter, l'acte de vote, les conditions du vote ou les résultats du vote.

Enfin, il faudrait aussi se poser des questions sur l'effet de l'usage souvent immodéré des accusations de fraude, bien avant que cette dernière soit prouvée. Il est possible que ces accusations induisent des dépenses considérables pour « blinder » le vote. Il est aussi possible que ce soit une tactique pour délégitimer l'adversaire qu'on ne peut battre par les bulletins. Il est aussi possible, devant la force de plus en plus évidente de la communauté internationale comme témoin et parfois acteur des processus électoraux, que ce soit une façon de se faire reconnaitre en clamant la fraude. D'ailleurs, certaine de ces accusations se sont avérées correctes. Mais pour un cas, il y a eu trois fois plus d'accusations infondées. Il serait ainsi temps que la communauté internationale rende son évaluation plus cohérente afin de se donner une autonomie dans ses décisions et évaluations.

8TH European Conference of electoral management bodies "Elections in a changing world" Vienna, Austria, Programme

<u>Thursday, 12 May 2011</u>

- 09:30 10:00 Registration of participants
- 10:00 10:30 Opening remarks by:
 - Dr. Mathias VOGL, Director General for Legal Affairs in the Federal Ministry of the Interior and Deputy Chair of the Federal Electoral Board, Austria
 - Dr. Gianni BUQUICCHIO, President of the Venice Commission, Council of Europe
- 10:30 11:15 Presentations by EMBs on 2010/2011 electoral events:
 - Azerbaijan
 - Bosnia and Herzegovina
 - Brazil
 - Finland
 - Georgia
 - Kazakhstan
 - Kyrgyzstan
 - Latvia
 - Moldova
 - Slovakia
 - United Kingdom
- 11:15 11:30 Presentation of activities of UNIORE (Inter-American Union of Electoral Organisations); Address by Mr. Manuel González Oropeza, Electoral Justice, , Federal Electoral Tribunal of Mexico, Substitute Member of the Venice Commission, Council of Europe.
- 11:30 11:45Presentation of IDEA on ACE Electoral Knowledge Network
Mr Martin HALLBERG, Thematic Network Facilitator, ACE Secretariat
- 11:45 12:15 Coffee break

12:15 – 13:15 **1st Working session Chair: Dr. Gianni BUQUICCHIO**, President of the Venice Commission, Council of Europe

> The role of modern technology and social media in elections Introduction of topic by Commissioner Donetta DAVIDSON, Chair of the U.S. Election Assistance Commission

- 12:45 13:15 Questions and discussion
- 13:15 14:30 Lunch at the Conference Venue
- 14:30 15:30 **Workshop 1** (3 parallel sessions by 3 speakers addressing the following questions) The role of modern technology and social media in elections
 - i. Social media and the secrecy of the vote -Ms Christiane EGERT-WIENSS, Federal Statistical Office, Germany

ii.	How do modern media influence the electorate? -
	Prof. Dr. Herdis THORGEIRSDOTTIR, member of the Venice
	Commission, Council of Europe

iii. The right to free vote and the impact of the digital age -Ms Heleen HORMANN, Electoral Council of the Netherlands

15:30 – 16:30 2nd Working session Chair: Dr. Mathias VOGL, Director General for Legal Affairs in the Federal Ministry of the Interior and Deputy Chair of the Federal Electoral Board, Austria

Organising smooth elections – making processes transparent Introduction of topic by Prof. Dr. Alfred TAUDES, Vienna University of Economics and Business

- 16:00 16:30 Questions and discussion
- 16:30 17:00 Coffee break

17:00 – 18:00 **Workshop 2** (3 parallel sessions by 3 speakers addressing the following questions) Organising smooth elections – making processes transparent

- Can modern technology improve the election cycle? -Mr Peter WARDLE, The Electoral Commission, United Kingdom
 New approaches for organising smooth elections -
- Mr Leonardo VALDÉS ZURITA, Federal Electoral Institute, Mexico iii. The future of polling stations in the light of new voting channels
- (regulations for polling stations, lines, opening hours etc...) -Mr Robert STEIN, Federal Ministry of the Interior, Austria
- 18:00 18:30 Conclusions of the first day

Bus transfer to the Federal Ministry of the Interior

19:30 – 21:30 Exhibition of historic election posters in the Federal Ministry of the Interior; evening reception and networking

Friday, 13 May 2011

09:30 – 11:00 3rd Working session Chair: Prof. Dr. Herdis THORGEIRSDOTTIR , member of the Venice Commission, Council of Europe		
10:30 – 11:00	E-voting – quo vadis? Introduction of topic by Prof. Dr. Ülle MADISE, Legal Adviser to the President of the Republic of Estonia Questions and discussion	
11:00 - 11:30	Coffee break	
11:30 – 12:30	Workshop 3 (3 parallel sessions by 3 speakers addressing the following questions)	

- i. The status quo of e-voting in the year 2011 -
- Mr Gregor WENDA, Federal Ministry of the Interior, Austria ii. E-voting: How to tackle concerns and to maintain trust -
- Ms Ardita Driza MAURER, Federal Chancellery, Switzerland iii. Ensuring transparency: Steps to observe e-enabled elections -Mr Robert KRIMMER, OSCE ODIHR
- 12:30 14:00 Lunch
- 12:30 16:00 Closing session

Chair: Mr Peter WARDLE, The Electoral Commission, United Kingdom

- 14:00 –14:15 Presentation on the topic "Looking at the debate on Electoral Fraud" by Mr Nguyen HUU DONG, United Nations Development Programme in Mexico, and Mr Héctor DÁVALOS MARTÍNEZ, Electoral Court of the Federal Judiciary of Mexico
- 14:15 14:45 Conclusions of the workshops
- 14:45 15:15 Questions and discussion
- 15:15 16:00 Conclusions and closing remarks