

## 13<sup>th</sup> Conference of EMBs

### New Technologies in elections: Public Trust and challenges for EMBs

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#### ***Observation and impact of new technologies in electoral processes***

The introduction of new technologies in the electoral process brings potential benefits, but also risks and challenges for the EMBs and other stakeholders, as well as for observers. The use of new technologies in election touches upon the key question of transparency and efficiency in electoral processes. We need to look at it through the prism of various aspects, including the legal framework, the capacity of EMBs and the confidence in the process.

New technologies in elections affect various stages of the process: voters registration, voters identification, voting, counting, transmission and tabulation of results as well as open data and public scrutiny of results. In countries where EU is involved in election observation (Africa, Asia, Latin America), by far the **most common technology applied during the pre-election process is biometrics related to voter registration (BVR)**. It is meant to help election management bodies to eliminate duplicate entries in voter registers. Often BVR is perceived by political parties, sometimes also those in opposition, as a solution to problems: a guarantee for the integrity of the registration process.

As a matter of fact, several factors, including ignorance of the technology or exaggeration of BVR benefits – sometimes to justify the high cost - can lead to the perception that BVR can be a panacea addressing all registration flaws. However, biometrics cannot fix all problems associated with voter registration. For instance, biometrics cannot prevent, ipso facto, possible registration by non-citizens, under-age registration, or the presence of deceased voters in a register. It is therefore key to ensure adequate awareness of the functioning of the technology applied and of its limitations.

When observing the use of biometrics in an electoral context, it is useful to assess the level of knowledge of the technology amongst various stakeholders - not only the elections management body which is implementing biometric voter registration - but also political parties, media houses, civil society and citizen observation organisations.

Reputable vendors of biometric solutions are careful not to misrepresent the functionality their solutions offer. Nevertheless, commercial interests can influence the debate on the introduction of these technologies into election processes.

The creation of a biometric voter register by a private company may be seen as a quick fix to get, in theory, a comprehensive and reliable voter register but certain aspects of that process may raise concerns:

- transparency in tender procedures and total amount of the contracts, respect of international norms
- transfer of competences to the national administration as it is essential to build sustainable national capacities.
- Question of confidentiality and access to the biometric data
- Training of the staff on how to use and adequately maintain the equipment
- Overall cost of the support: to cover the full cost of establishing BVR, requires very substantial amount of money

Where an agency other than the elections management body is responsible for the identification of citizens and uses biometrics in order to ensure uniqueness of the civil or population register, the EMB generally has no need for the biometric data - unless there is an intention to use it for voter identification or authentication on polling day.

Many voter registers are based on data extracted from civil or population registries. In many of these cases, the data handed to the EMB will often be a subset of the attributes captured and will often include the facial photograph of the voter. The inclusion of the voter's photograph on the voter lists has long been recognised as a simple but highly effective deterrent to Election Day abuses, such as personation. The EU has been providing support to the modernisation of civil registers (and finger prints digitalisation), namely recently in the Sahel region, but the following elements need to be carefully taken into consideration:

- One of the key issues is, again, the overall sustainability: how to make sure that the national administrations will not only have the financial resources but also capacities to maintain such registers? Otherwise it is a huge cost for a non-sustainable outcome
- In many cases it is highly advisable that if civil registers are established, there should also be the basis for voter registers to avoid duplicating cost and leading to more reliable and sustainable voter registers. In such cases, certain consideration must be taken into account, for instance the need to link each voter to a polling station (or in countries with sophisticated address systems, a detailed address so that this link can be established). Failure to provide this link can lead to serious problems on election day when voters are not informed where they are registered to vote, which was the case for example in Angola in 2007.

A few African countries have managed to have a reliable civic register, which can be the basis for the voter register without requiring biometric technology (e.g. Rwanda or Botswana). This needs a long term engagement and investment from the authorities, namely in building capacities and means to maintain this registers.

The other electoral use of biometrics is in devices to identify or authenticate voters at the polling station on Election Day. Known by various names, including EVID (Electronic Voter Identification) or electronic registers, this technology is seeing increased use. A recent example that will inevitably reverberate in the region and beyond is Nigeria which deployed over 150,000 devices on polling day in 2015. Other examples include Kenya, Ghana, Uganda, Venezuela and Brazil.

Where a country is using electronic voting machines and these include any version of electronic voter identification, there is a significant technical challenge to ensure that there is no possibility of any connection of a voter's record with the vote they cast.

As experienced by the EU EOM in Venezuela in 2006, the remote possibility of subsequent reconstruction from even disparate sources of the sequence of voters and votes cast, presents a potential challenge to stakeholder confidence in an election. Subsequent reports from the Carter Centre in 2012 elaborate how the EMB in Venezuela has addressed these concerns.

Recent EU observation experience has shown that newly introduced technologies often fail, highlighting the need for proper piloting of the technology and for a traditional paper back-up solution, as was the case recently in Peru. Cases in Malawi (2014), Kenya (2013) and Ghana (2012) show how the introduction of election technology into the process caused significant election day problems that negatively affected public confidence.

These experiences also demonstrate the need for observers to be particularly vigilant regarding new election technologies. The biggest challenge for observers is understanding the newly adopted technology and equipment, so that they can properly observe the process. New election technologies may also challenge the transparency of the process, which is crucial for effective observation as well as for public confidence.

Other associated problems that have been observed with the introduction of new election technologies include compressed election timetables because of late procurement processes, as was the case in Kenya, and the failure to properly update election legislation to reflect the adoption of new technologies, as was the case in Uganda earlier this year, where approximately 500,000 potential first time voters were disenfranchised because the legislation did not take into account the change from an active to a passive voter registration system.

When observing counting, EU EOMs can trace polling station results up to final results, so that observing processes is crowned by credible assessment of outcomes.

However, assessing voter registration procedures in the pre-electoral period is a more complex issue. The EU and other international observer are not in a position to deploy observers staying at VR centres over the full registration period to keep a parallel tally of entered records to match the collected dataset against the final list used for polling. The EU EOM scale samples –even

when assessing the voter registration such as in Soudan in 2010 - remain limited, unless several hundred VR centres were observed throughout the entire registration period. More importantly, observation of registration procedures fails to detect deceased, displaced, multiple, fictitious or otherwise illegitimate entries or omissions on the register—the types of flaws that often dominate opposition allegations.

Observation of registration processes can assess only the regularity of procedures themselves, as measured against the legal framework, but not the integrity of the final voter register per se.

Still, the EU is increasingly following voter registration processes, for instance by deploying dedicated Election Expert Missions for this purpose, as was the case last year in Nigeria and Tanzania. These missions were able to collect much relevant information on the newly introduced biometric voter registration systems that was then fed into the full-scale election observation missions that followed. The EU is also focusing on how EU EOMs can better analyse publicly available voter registration data, to make more comprehensive assessments of the voter registration process.

New technologies do not make elections better or worse. It depends on the conditions applied. It is clear that a proper legal framework is a pre-condition. Adequate transparency in the selection and implementation of the new technologies is required to ensure confidence by all stakeholders. Finally, domestic capacity needs to be adequate to manage the new technologies in an accountable manner. Finally, from the observers perspective, long term presence, awareness of the systems and technical knowledge are necessary to be able to assess the performance of new technologies.