



**13th EUROPEAN CONFERENCE
OF ELECTORAL MANAGEMENT BODIES**

**“NEW TECHNOLOGIES IN ELECTIONS:
PUBLIC TRUST AND CHALLENGES
FOR ELECTORAL MANAGEMENT BODIES”**

Thursday and Friday, 14-15 April 2016

**Bucharest
Parliament House, No 2-4, Izvor Street, 5th district**

**INTERVENTION OF MR THOMAS MARKERT
DIRECTOR, SECRETARY OF THE VENICE COMMISSION
FOR THE OPENING SESSION OF THE CONFERENCE**

Ms Counsellor,
Ms Chairwoman,
Dear Sir,
Ladies and Gentlemen, dear colleagues,

I am very pleased to address you at the occasion of the **13th European Conference of Electoral Management Bodies** on behalf of the Venice Commission of the Council of Europe. This year, our annual electoral event is devoted to “**New technologies in elections: public trust and challenges for electoral management bodies**”.

Before going into substance, let me first thank the Permanent Electoral Authority of Romania and its Chairwoman, Ms Ana Maria Pătru, for hosting the 13th EMB Conference. The number of participants – around 160 – and the variety of EMBs, countries, continents and international institutions taking part in the Conference shows the increasing interest in our regular annual EMB Conference.

I am particularly pleased that thanks to the Venice Commission’s efforts, many non-European countries take part in this Conference. I find it very useful since outside Europe, we can find particularly advanced solutions concerning e-voting in countries such as Brazil.

The Council of Europe has always been active in the field of e-voting. Its different institutions, such as the Committee of Ministers, the Parliamentary Assembly or the Venice Commission issued reference documents in this respect.

The Recommendation of the **Committee of Ministers** of the Council of Europe from 2004 (Rec(2004)11) on legal, operational and technical standards for e-voting remains the only source of reference on the subject. It is used in national jurisprudence even in non-member States, as well as by other relevant international actors.

Since its adoption, the Recommendation has been subject to biennial review meetings. Discussions in the Council of Europe’s competent Rapporteur Group (GR-DEM) as well as a recent expert meeting on the Recommendation have also shown a growing consensus as to the need to update the present Recommendation, given newer technological and societal developments over time.

It is in this context that the Committee of Ministers decided to set up the Ad hoc Committee of Experts on legal, operational and technical standards for e-voting (CAHVE) in order to redesign the Recommendation and to establish an international document in line with the current new voting technologies.

This ad hoc Committee is a forum where senior officials from member States' election management bodies meet to discuss technical and legal development on e-enabled elections in the Council of Europe member States.

The **Parliamentary Assembly** of the Council of Europe also issued documents in the field of e-voting. In its **Resolution 1653 of 2009**, the Parliamentary Assembly calls the national parliaments to improve their domestic legislation in order to remedy democracy's deficits, especially with regard to voter participation. In particular, the Parliamentary Assembly calls on national parliaments and their members to make full use of the opportunities offered by ICTs with a view to improving the quality of representative democracy and in particular to "[...] review national legislation with a view to introducing legal standards for using e-tools in the political process, and to eliminating the risks of their misuse, both technical and political, notably as regards human rights and security issues, including data protection and the security of documents, voting, networking and information [...]." In this document, the Parliamentary Assembly also covers difficult issues such as compatibilities of such use with human rights and personal data protection, issues that will be debated during these two days.

Based on this Resolution, the Parliamentary Assembly recommended in its **Recommendation 1860 of 2009** to enhance e-democracy by calling upon the Committee of Ministers of the Council of Europe to initiate further regulations in the field of e-democracy at the pan-European level.

The **Venice Commission** issued in 2004 a reference document in the field of electronic voting: the **Report on the compatibility of remote voting and electronic voting with the standards of the Council of Europe**. Despite this Report is old, it remains relevant for a number of reasons. The Report defines remote voting by stating that "there are at least two different concepts of remote voting in Council of Europe Member States:

- remote voting in a controlled or supervised environment (e.g. voting in an embassy abroad or polling station outside a voter's polling district) and
- remote voting in an "uncontrolled" or non-supervised environment, i.e. there are no election officials present (e.g. sending your vote by mail)." The forthcoming debates during the Conference will concern both concepts.

The Venice Commission's Report recalls the Council of Europe's standards in the field of free elections, i.e. Article 3 of Protocol 1 to the European

Convention on Human Rights and the Venice Commission's Code of Good Practice in Electoral Matters. After a comparative analysis of remote voting in Europe, the Report concludes by confirming the compatibility of the remote voting with the Council of Europe's standards, "provided that certain preventative measures are observed in the procedures for either non-supervised postal voting or electronic voting." In its conclusions, the Report adds that "for non-supervised e-enabled voting, technical standards must overcome different threats to those which exist for postal voting. This form of voting must only be accepted if it is secure and reliable. In particular, the elector must be able to obtain confirmation of his or her vote and, if necessary, correct it without the secrecy of the ballot being in any way violated. The system's transparency must be guaranteed. Insofar as an e-enabled voting system meets these conditions, it is compatible with the European standards on electoral matters, and in particular with Article 3 of Protocol 1 to the European Convention on Human Rights."

As you can see, international documents exist and I limited my intervention to the documents of the Council of Europe. Other international institutions, case-law and election observation reports complement and reinforce such documents. The plenary and the working sessions of the Conference will review the various situations and challenges that you have all to face in your capacity of electoral management bodies in order to make an effective use of new technologies in elections. Additionally, it remains a necessity to reinforce at the same time public trust in electoral processes. New technologies in elections cover not only E-Day but many phases of electoral processes, such as voter registration, media supervision, counting procedures, etc.

Among other issues, we will debate these two days on the practical implementation of international principles in electoral laws surrounded by new technologies; the secrecy of the vote and personal data protection that can be challenged by the use of new technologies in elections. It will also be question of the neutrality of authorities vis-à-vis new technologies applied to elections as well as observation of new technologies in electoral processes.

We are also proud to host a special event during the Conference, moderated by Mr Andreas Gross, which will debate on 25 years of international election observation. This special event is organised in the context of the future report of Mr Gross on this topic, which will provide an overview of the situation in Europe with regard to international election observation. This forthcoming debate and its subsequent report will especially raise questions from the perspective of electoral management bodies, such as how EMBs observe the work of election observers, how they evaluate such work and how such international election observation missions can improve electoral processes based on the observers' recommendations.

Lastly, I would like to underline that the Venice Commission promotes all means to enhance democracy including new technologies in elections, which aim at facilitating electoral processes and increasing turnout. New technologies in elections are fantastic tools but they are not necessarily a panacea. Citizens need trust in such technologies and in their practical application, and more largely trust in electoral processes in order to secure genuine and credible elections. This Conference should definitely participate in this global objective.

I do not want to take more time. A photo group is waiting for us after this opening session. I therefore wish us all fruitful debates.

Thank you for your attention!