

**DRAFT**



**DEVELOPING ACCURATE VOTER LISTS  
IN TRANSITIONAL DEMOCRACIES**

**HANDBOOK**

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performed by the Association of European Election Officials**

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### **Foreword**

Every citizen shall have the right and the opportunity to vote in a democratic society. The states must take effective measures to ensure that all persons entitled to vote are able to exercise that right. In order to implement that right the registration of voters (voter lists) plays an important role.

The main functions of the voter lists are to protect the two basic principles of democratic elections, namely the principles of universal and equal suffrage. First of all, the voter lists are to prove who has the right to vote and to hinder the voting of individuals who are deprived of the practice of this right by legal reasons and correct judicial procedures. The voter lists protect the principle of universal suffrage in this way. The other basic function of the voter lists is to help to ensure that every voter will cast only one ballot so it could avoid double-voting. In this way the equal suffrage is also protected.

The voter lists can be used to handle specific voting situations and – in addition – support the election bodies performing specific duties concerning the electoral administration, as well. Voting out of the place of residence in the country, in hospitals, prisons or in the case of certain illnesses in the home of the persons also could be managed only by proper voter lists. Out of country voting procedure also requires well based voter lists which could be updated regularly. The voter lists help determining the boundaries of polling districts and constituencies, checking the eligibility of candidates. Voter lists help also to increase the transparency of election procedures and decrease the possibility of electoral fraud.

It is obvious that without well prepared voter lists it is not possible to implement a democratic election. The voter lists are one of the most important parts of the election administration. ACEEEO understood the importance of that question and decided to provide assistance to those states which are not in the position having an effective voter registration system. The reason for the lack of the effective voter registration is mainly the inadequate legal system and public administration.

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The application of lawful, accurate and complete voter lists requires a precise legislation. It is not enough to enact the principles and the substantive norms (e.g. the requirement of registering the voters) but it is also important to regulate in details the entire procedure of voter registration taking into account the specific cases and situations and the support of vulnerable groups as well. Such specific cases that require particular legislation are, for example, the out of country voting, guaranteeing the exercise of suffrage by refugees and internally displaced persons, the registration of individuals living in remote rural or mountain areas.

The implementation of the law, the performance of the registration procedure also requires thorough preparation. It must include the training of the officials responsible for the registration of voters and keeping the electronic or hard copy files containing the voter lists, reserving the necessary financial resources, procuring the technical equipment that are especially important in case of applying information technology, etc.

The practical experiences indicate that lack of information and indifference of voters to the proper registration also contribute to the mistakes and deficiencies when drawing up the voter lists. People often 'forget' to report the change of the address of residence, do not check in time if they are registered in the voter lists and this negligence may result that they are refused to cast their votes on election day. Therefore, well-designed awareness campaigns are to be held for calling the attention of the voters.

ACEEEO is in the position to provide professional support to the young democracies and countries in transition to complete their legal framework and improve their election administration.

The basic principles and goals of the United Nation Democracy Fund (UNDEF) are to support those activities which promote constitutional rights of the citizens. In this respect the right to vote is one of the basic constitutional rights. UNDEF welcomed ACEEEO's idea and provided financial support to the project.

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This is a two-year project which has two main stages.

The first stage (called *Milestone 1*) dealt with an analysis of comprehensive and theoretical issues of voter registration. We collected the law in force and the practical experiences of our member states and made an in-depth analysis in six countries (Armenia, Bosnia-Herzegovina, Georgia, Hungary, Latvia, and Moldova). A study was prepared on “Theory and practice of voter registration – definitions, standards, principles and examples”. Based on a questionnaire and the in-depth analysis a comparative study was developed “Report on practical experiences on voter registration in ACEEEO member states”. These documents are available in **Annex 4 and Annex 5** of this handbook.

During the second phase (called *Milestone 2*) this handbook was drafted on how to develop proper and accurate voter lists based on best practices. We are aware the fact that principles of the democratic, fair and transparent elections are uniform around the world, but the specific solutions cannot be standardized: election commission of each country shall establish the good practice on its own. In accordance with this, there are no teachers and students in the preparation of the accurate voter lists, but a meaningful international exchange of experiences is required. For this reason we collected the experiences of the ACEEEO member states and the ideas of those valuable documents that were issued by the international organizations committed to the development of democracy and especially to elections.

The handbook contains all the elements of the voter registration including the general requirements, the establishment of the legal framework, as well as the administrative and technical aspects. As different aspects of the voter registration partly overlap each other we also could not avoid repeating several ideas and topics in two or more chapters. For example, the protection of personal data is a very important requirement of lawful and fair voter lists; therefore we discuss this issue in a particular chapter. However, when discussing the data content of the voter lists or the transparency of the registration procedure and the voter lists we

also had to refer to the requirements of data protection. In order to facilitate the use of the handbook the reader can find references in each chapter with ***bold italic letters*** to the other chapter(s) where the topic in question is also discussed.

Each chapter, based on the best practices, contains recommendations for the electoral experts. In order to emphasize these proposals they are shaded with grey. The last chapter of the handbook includes all these recommendations referring to the chapters where more detailed explanation of these recommendations can be found.

The Handbook will be discussed during the annual conference of ACEEEO in Tbilisi (September 2010). Two weeks before the beginning of the conference we send this document to all the participants of the conference and ask them to send their comments in writing or presenting them orally in the conference. Considering the comments and proposals, the final document will be published by December 2010 in written and electronic form, including the establishment of a web page.

After the UNDEF granted period of the project ACEEEO plans to form a mobile group of experts participating in this project offering practical, concrete support in the frame of short term expert missions.

### 1. Overview

#### 1.1. *The notion of voter registration and voter lists*

*Voter registration* is an integral part of the electoral procedure; it is a process where the electoral management collects the data of those individuals who are eligible to vote. *Individuals eligible to vote* are people who meet the suffrage requirements established by constitution or electoral act (see: **4.1. Conditions of suffrage and eligibility**). These requirements are usually minimum age, citizenship, and residency. The result of this process is *voter register* which



includes the data of every voter of the country. The basis of the voter register is usually *population register*, a set of records of all the citizens (or all the inhabitants) of a municipality or a state. Before the election, the data of voter register are assigned to specific polling districts, which result in *voter lists*. So while voter register is a total database of voters, voter list is a part of it, which can be used only in one polling district. An election can be conducted without a voter register, but it is rarely conducted without voter lists. In this handbook, we use this pair of terms despite the fact that national legislations apply also other expressions for these elements of voter registration (e. g. electoral roll, electoral register, voter roll).

### ***1.2. Types of the registration of voters and of voter lists***

Depending on the ways of registration, the duration (validity period) of the voter register and voter lists as well as the method of keeping the data of voter register and voter lists there are several types of voter registration.

#### **1. Active and passive voter registration**

These two types of voter registration differ from each other in the role of voters. In *passive system*, voters have nothing to do; it is the electoral management who takes the data of voters from a separate database (usually population register) without any contact with the voters. Typically, a population register includes information such as name, age, gender, marital status and address for every citizen or inhabitant of a country. Births and deaths are also recorded in the registry. Identifying eligible voters requires searching the existing population register for those individuals who meet the necessary criteria, as well as noting the names of individuals who

shall be removed from the voters list due to death or other reason. However, voter register is only as reliable as the population register.

In *active system*, electoral management gets the data direct from the individuals eligible to vote, so it is the voter who decides about inclusion in voter register. There are two forms of active system. The *individual-initiated system* requires the active cooperation of voters, they must take the initiative to go to registration offices or send a registration form by mail. In *state-initiated system* electoral officials have the responsibility of going to the public in order to identify those individuals who are eligible to vote. This is typically done by trained staff canvassing door-to-door.

In some countries, election officials employ a *mixture of the two systems*. For example, registration centres may be established in some areas that are easy for the public to reach, while in remote areas officials go directly to the residence of potential voters. Mixed system can mean also that voter register is exacted from a state register but legislation enables all voter or some groups of voters (such as voters abroad or citizens of another sate) inclusion at their own request.

Active systems can be *compulsory* (people shall register) or *voluntary* (people can decide if they want to be enrolled or not).

As all the ACEEEO member states apply the passive system of voter registration this handbook deals only with the issues of this system. However, it is important to note that even if a state employs the passive system there are some specific cases when the active contribution of the individuals is necessary. For example: the registration of voters staying abroad (out of country voting), registration of refugees. Of course, these issues are discussed in the corresponding chapters of the handbook (see: **5.4. Vulnerable and specific groups, 8. How to prepare voter lists**)

### 2. Continuous and periodic voter registration

In a *continuous system*, register is based on an initial register that is updated on a regular and ongoing basis, each time an individual civil status event occurs. There are two ways for updating the register: either the voters inform the authorities about changes in their data at any time, usually by contacting an administrative office or the data are updated *ex officio*. In the latter case either the authorities registering the changes of civil statuses send information of these cases or the updating is performed automatically by an online connection between the voter register and the database (e.g. population register) keeping the data of the population.

In a *periodic system*, records are updated (or even compiled) periodically – either prior to an electoral event or once in every certain number of years. It also often applied that updating is performed once in every year and also prior to the elections. The least efficient solution is if electoral officials must create an entirely new voter register for every election.

In most ACEEEO member states the authority keeping the population register and the electoral authority work together in updating the voter register (see: **8. How to prepare voter lists**).

### **1.3. Levels of voter registers**

As referred to in **1.1. The notion of voter registration and voter lists** there are different ways of collecting and keeping the data of voters. Voter register means the registration of the entire population of a country having the right to vote, whilst voter lists are the data of voter register assigned to specific polling districts. It depends on the legal framework and the technical conditions if there are only voter lists produced for every single polling district (polling station) or the data of the entire voter population is collected and kept in a central database.

In accordance with our experiences the purposes and functions of the voter registration (see: **2. Purposes and functions of the voter registration**) may only be fully accomplished if there is a central voter register and the voter lists of the polling districts are produced and updated by this database. For example: the following of the changes of residence of the voters is one of the most crucial issues regarding the accuracy of voter lists. If there are only voter lists in the polling districts it is very difficult to find the best way for deleting the person in question from the voter list of the polling district where he resided and completing with his data the voter list according to his new address of residence. If all the voters' data are recorded centrally and the IT system applied makes possible online connections between this database and the voter register or voter lists the updating of the voter lists may be accomplished in an automatic and reliable way (see also: **8.1. Voter lists for parliamentary elections**).

### **2. Purposes and functions of the voter registration**

In the context of this handbook we use purposes and functions of the voter registration as synonyms, which mean those procedures and the results of these procedures where the data of the voter registers or voter lists are employed (hereinafter we use 'purpose'). We have to make distinction between the basic purpose of the voter registration and those additional purposes where the use of the data of voter registers or voter lists is recommended.

In accordance with the data protection requirements, personal data may be used only for purposes provided for by law. It means in this case that voter lists may be only used for purposes connected to the elections and the electoral process and, within this general condition, only for such purposes that are expressly provided for by law. Therefore we recommend that legal provisions should

particularly regulate the cases where the data of voter lists may be or should be applied (see also: **3.2. Legal framework, 5.5. Data protection**).

### **2.1. General purposes**

The main purpose of voter registration is to proof those who have the right to vote. Someone who is enrolled on the voter list can go to the polling station and vote. Its contrary is also true: someone whose name does not appear on the voter list is not allowed to vote even if he or she goes to the polling station. The exception is when the national legislation allows to be registered by the returning committee on election day.<sup>1</sup> So voter register and voter lists protect the principle of universal suffrage. This purpose is realized during the compilation and update of voter register and voter lists and on the election day.

The equal suffrage, which means that every voter has one vote (or has an equal number of votes) is a basic principle of democratic elections. Voter register and voter lists help to ensure that every voter will cast only one ballot and help to avoid double-voting or to clear up double-voting abuses. This purpose is attained on the election day by the returning committee, and after the voting by processing voting data. Of course, the full realization of the above purpose requires a central voter register containing the data of all the voters or at least good communication between the local electoral bodies (see: **1.2. Types of the registration of voters and of voter lists, 8.1. Voter lists for parliamentary elections**)

Another important function of voter registration is informing the individuals on being enrolled. The most effective way to inform voters about the date of

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<sup>1</sup> Although it is allowed in several ACEEEO member states and also in other countries we have to note that this practice seriously jeopardizes the reliability of the voter lists and this way the principle of fair elections. That is why this practice is contrary to the Code of Good Practice in Electoral Matters adopted by the Venice Commission. This document declares: “the registration shall not take place at the polling station on election day” (see also: **3.1. Setting up strategy and criteria**).

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election, the place where they can cast their ballot and other particulars is sending each voter who is enrolled a notice. This information helps voter be convinced of being in voter register. If a voter does not get a notice he/she has the possibility to submit a complaint.

Voter register has a special role in the countries where voting is compulsory: it helps to control who has cast his or her vote and punish absence. As voting is not compulsory in ACEEEO member states this function has no role there.

Voter register plays an important role also in special voting situations. Most states permit voting also for voters who are away from their place of residence on election day. The most frequently applied cases are as follows:

- a) Voting in the country but away from the place of residence (absentee voting)
- b) Specific cases of the above situation (e.g. voters on military or other state services, detained voters, voters in health institutes)
- c) Internally displaced persons
- d) Homeless persons
- e) Voting abroad (including the right to vote of refugees)
- f) Foreigners having the right to vote (e.g. citizens of EU member states at EU parliamentary elections, foreigners having permanent residence permit at local elections)

These special situations have to be managed also by voter registration. However, it requires particular legal provisions and convenient administrative and technical measures to facilitate the exercise of suffrage of these people and to prevent abusing of these opportunities (first of all preventing double voting or 'electoral tourism'). See in details: **5.4. Vulnerable and specific groups, 6. Fraud.**

### *2.2. Use of voter lists for other purposes*

As drawn up above, the most important purposes of the registration of voters are to make possible for them to exercise the right to vote and to prevent frauds (e.g. double voting). However, there are some additional purposes in connection with the electoral procedure and eligibility where the use of the voter lists can facilitate the fulfilment of the duties of the electoral management or support the activities of other participants of the electoral process. On the basis of the practices of ACEEEO member states such activities to be recommended applying are as follows:

1. **Checking the supporters of candidates and political parties.** In several countries the precondition of standing a candidate (or a political party) for the elections is the support by a certain number of voters. It means that when an individual candidate submits the request for registration to the competent electoral body or the political party submits the list of candidates they have to attach a document proving the support of voters.

The minimal number of necessary supporters is regulated by law. It is also regulated by the electoral law how the supporters may be collected, what kind of forms or lists are to be applied and which data of the supporters are necessary to register there. For example, the supporter fills in a form by presenting his/her identification data and signature and expressing his will to support the candidate in question; lists are applied to be filled in with the data and signature of the supporters, etc.

There are generally additional legal provisions in terms of collecting supporters. Such provisions may be that one person may support only one candidate (and/or political party); the voter may only support a candidate (political party) to be set up in the same constituency where he/she resides (where he/she was registered in the voter list).

When the competent electoral body decides on the acceptance or refusal of the candidate the necessary number of supporters and the validity of the support should be checked. Where the registration of voters is performed centrally and/or there is an IT supported system which makes possible to check the identification data of the voters and the existence of other legal requirements (e.g. one voter may only support one candidate, the voter was registered in the constituency where the candidate was set up) the use of voter lists can facilitate the performance of this task. Of course, this requires legal provisions and the development of an IT system which makes possible to proceed this way.

2. **Checking the eligibility of individual candidates and candidates on the lists of political parties.** As drawn up in **4.1. Conditions of suffrage and eligibility** the electoral law determines the conditions of eligibility (the right to be elected). Out of the general conditions of eligibility, in most countries there are additional conditions for standing a candidate. For example, a candidate may only be nominated in one constituency, he/she must have a residence in the constituency or settlement where nominated, etc. In the case of legal authorization and adequate IT support the existence of legal conditions for eligibility may be easily checked by the voter register or voter lists. Establishing the fact if someone obtains eligibility or not can be necessary not only during electoral period. Some countries' legislation requires eligibility for several public offices such as civil servants, notaries, judges, lay judges, jurymen. Voter register is a base for also justifying the eligibility of these people.
3. **Checking the members of electoral bodies.** During the electoral procedure, several electoral bodies work on different levels to conduct elections. One part of the members of electoral bodies is usually elected by the parliament or local governments or they are appointed by courts; in some countries other part of the members is appointed by the candidates and political parties taking part in electoral race. Usually only voters can be members of



these electoral bodies, and in several cases the member of the electoral body must have a residence in the territory of competence of this body. The fulfilment of these requirements may be also checked by the voter lists.

4. **Checking the right of individuals to initiate specific actions.** Voter registration can help in cases where the legal instruments authorize only voters to an action in the electoral procedure. For example, in most countries the legislation ensures the right to submit complaints why someone has broken the law or the right to appeal against the result of election but only voters or certain groups of voters – besides parties – are authorized to perform these actions.
5. **Drawing the boundaries of constituencies.** An important condition of equal suffrage is that population of the constituencies be approximately equal. If there are significant differences in the population (number of voters) in different constituencies the right of equal suffrage is infringed because a vote cast in a constituency of larger population is worth less than a vote cast in a constituency of smaller population.

For the reason of traditions, geographical and other conditions the population (number of voters) cannot be absolutely equal in every constituency but, according to our experiences, all the governments of the new democracies strived for drawing the boundaries of the constituencies that way that population of every constituency should be approximately equal. However, as a result of demographic changes the population of several constituencies may significantly change. For example, people move from underdeveloped areas to developing settlements, move for finding better jobs, etc. In order to maintain the conditions of equal suffrage it is necessary to revise and change the boundaries of constituencies in accordance with the demographic changes. The statistical data collected from the voter lists are a good basis for preparing and implementing this duty.

6. **Drawing the boundaries of polling districts.** Whilst the boundaries and the population of the constituencies are in direct relationship with the equal suffrage as a main principle of electoral rights, the right determination of the boundaries of the polling districts serves practical purposes but indirectly concerns the right to vote of the individuals as well. We mean that in case too many people intend to cast their votes at one polling station (the polling district is too big) it may cause disorder in the voting process (impatient voters, tired and nervous returning committee members, etc.). Moreover, it may also result that several people cannot cast their votes by the prescribed time.

The reason for the emergence of these situations is similar to the ones described in the previous point and the demographic changes. For example, people move from the crowded city to the surrounding smaller settlements, a new housing estate is constructed in the territory of a polling district, etc. In order to avoid these difficulties it is convenient to check the number of voters in the voter lists of the polling districts and, if necessary, to change the boundaries of the existing districts and/or establishing a new polling district.

7. **Utilization of voter lists for political campaign purposes.** In several countries the electoral law allows for the political parties and individual candidates to get access to the data of voter lists and to use these data for political campaign purposes. If the parties and candidates know the identification and address data of voters it may facilitate and make more effective their campaign activities, for example by sending directly campaign messages to the voters, performing door-to-door campaign. Of course, in harmony with the data protection provisions these lists should be destroyed after the elections.
8. **Utilization of voter lists for statistical analysis.** The personal data recorded in the voter register and the voter lists can be used for statistical analysis. For example, it may be useful both for the political parties and scientific

researchers to compare the election results to the gender and age composition of a constituency. As statistical analysis employs aggregated data which hinders the identification of individuals the use of voter lists for such purposes should not harm the rights of individuals and is in harmony with the data protection provisions.

### **3. Designing voter registration systems**

In the transition from dictatorship to democracy all the ACEEEO member states had to face a significant duty: developing a completely new election system including the design and implementation of a voter registration system. Currently all these countries have more or less well functioning voter registration systems; therefore the designing of such a system “purely” means the revision and re-design of the existing system, if necessary. This chapter of the handbook intends to offer ideas for fulfilling this duty.

#### ***3.1. Setting up strategy and criteria***

Problems and deficiencies may occur even in a properly regulated and implemented voter registration system. Therefore it is convenient to analyze the experiences of the voter registration after every general election and to find the “weak points” of the system as well as the reasons for these weaknesses. The most important sources of the analysis may be as follows:

1. **Experiences of the electoral bodies.** As the electoral bodies are responsible for the conduct of the election procedures they have the most experiences on the possible problems and malfunctions. In several countries the electoral bodies have a specific obligation: after the elections they have to

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submit a report on the experiences of the electoral process. This report may include the possible problems of the voter registration system and the compilation of the voter lists.

2. **Findings and recommendations of the observer organizations.** The observation of the elections by the representatives of national and international (foreign) institutions is a general practice in all the ACEEEO member states. ACEEEO also sends observers to the elections held in the Central and Eastern European region. The most important purpose of observation missions is monitoring if the elections were held in a lawful way, in harmony with the national legislations and the international requirements and standards. However, the observers do not only watch the infringements of the law and the democratic values but also call the attention to the deficiencies which are not necessarily unlawful but may jeopardize the purity of elections. It is worthwhile considering the indications of the observer organizations when analyzing the electoral process.
3. **Analysis of the legal remedy procedures.** The analysis of the legal remedy procedures may throw light upon a lot of irregularities and omissions. Of course, the reason for these omissions is often the negligence of the voters. For example, it often occurs that a voter objects to omitting him from the voter list but, when clearing up the case, the authority proceeding finds that he forgot to report the change of his address of residence and therefore his name was registered in the voter list according to the previous address. Such cases may call the attention of the electoral bodies to spend more energy for the awareness of the voters of their rights and obligations. Of course, the analysis of legal remedies may also support to explore the mistakes and malfunctions of the electoral bodies.
4. **Complaints of the political parties and candidates.** It is a general experience that political parties and candidates are the best observers of the electoral

process. As they are directly interested in the result of elections they follow with attention every single element of the process and immediately call the attention of the electoral management (and of the public) when finding any irregularity that may endanger their interests, even if it is not a reason for submitting a request for legal remedy. The examination of these complaints may also contribute to the development of the voter registration system.

5. **Consideration of international standards.** Several international documents contain provisions and standards on the electoral rights and procedures including the registration of voters. **Annex 2** of this document collected the most important documents concerning elections; here we only quote the ones directly dealing with the registration of voters.

The *General Comment No. 25 to the International Covenant on Civil and Political Rights* refers also to voter registration: ‘States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it shall be facilitated and obstacles to such registration shall not be imposed. If residence requirements apply to registration, they must be reasonable, and shall not be imposed in such a way as to exclude the homeless from the right to vote. Any abusive interference with registration or voting as well as intimidation or coercion of voters shall be prohibited by penal laws and those laws shall be strictly enforced. Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.’<sup>2</sup>

A document of OSCE ODIHR titled *International Standards and Commitments on the Right to Democratic Elections: A Practical Guide to Democratic Elections Best Practice* specifies the requirements which the regulation of voter registration must meet. According to the document

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<sup>2</sup> General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25) : 12/07/96., point 11.

voter register must be true, accurate, accessible and transparent, must be regularly updated. Circumstantial orders handle the legal remedies: requests for changes, entries, and deletions in the voter registers shall not be limited to a time period just before a given election, except where necessary to finalise registers prior to an election. A person shall not be limited to making requests that relate only to that person. A person shall be permitted to make a request that affects another person, provided the other person is notified of the request and permitted to respond to the request.

The most detailed criteria of voter registration are drafted in *Code of Good Practice in Electoral Matters* adopted by the Venice Commission. According to the Code, fulfilment of the following criteria is essential if electoral registers are to be reliable:

- Electoral registers must be permanent.
- There must be regular up-dates, at least once a year. Where voters are not registered automatically, registration must be possible over a relatively long period.
- Electoral registers must be published.
- There shall be an administrative procedure - subject to judicial control - or a judicial procedure, allowing for the registration of the voter who was not registered; the registration shall not take place at the polling station on election day.
- A similar procedure shall allow the voter to have incorrect inscriptions amended.
- A supplementary register may be a means of giving the vote to persons who have moved or reached statutory voting age since final publication of the register.

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Based on the analysis of the above documents a decision may be made by the competent authority whether it is necessary to amend the legal framework and/or the procedure of the registration of voters. It is also to be decided if the technical equipment (e.g. IT support) is satisfactory or requires improvement. If changes are necessary it is recommended that the authority responsible for the entire election system adopts a concept paper including the strategic goals of development and the duties of the authorities in terms of legislation as well as the human, technical and financial resources.

### ***3.2. Legal framework***

On the basis of the strategy and criteria (see ***first point of this chapter***) the legal provisions regulating the registration of voters and the drawing up of the voter lists should be revised and, if necessary, amended and/or completed. When preparing and adopting the legal norms several requirements and aspects should be considered. The most important ones are as follows:

1. Regulation of voter registration must be transparent and accessible for every actor of the electoral procedure. It means that legislation shall be published, recognizable by reading it in the gazette and possibly via internet. Secret legislation is prohibited and written law is an expectation in the field of voter registration.
2. It is especially important for the voters and the electoral administration that laws in connection with voter registration should be clear, understandable. As legislation is usually hard to understand for citizens (and also for the voluntary members of the election bodies), there must be commentaries, interpretations, explanations, arguments. This condition includes also that every electoral body and court shall interpret laws in the same way:

judgements in voter registration process must be similar if facts which are basis of the decisions are the similar in several situations.

3. **Stability of legislation is also a requirement.** If laws change many times, it can undermine voters' confidence in the electoral process and encumbers the procedures to be performed by the election bodies and courts. It is expressively dangerous if changes are made in the period immediately prior general elections. Nevertheless, necessary flexibility must be also allowed because legal, social and technical circumstances can transform from time to time. This can be ensured by leaving the detailed provisions to administrative rules issued by the government or authorised election administration bodies.
4. **Both under-regulation and overregulation must be avoided.** Legislation shall ensure that every situation could be judged according to the legal conditions but regulation shall not be so detailed that it would slow down or even stop the decision-making process. Nevertheless, in accordance with our experiences, the following subject matters are necessary to enact for the smooth implementation of the registration of voters:
  - 4.1. **The purposes of the registration of voters and the voter lists.** The most important purposes of the registration of voters are to make possible for them to exercise the right to vote and to prevent frauds (e.g. double voting). However, there may be some additional purposes in connection with the electoral procedure as drawn up in **2.1. General Purposes**. For example, checking the eligibility of candidates, determining the boundaries of the constituencies and polling districts, using them for campaign purposes by the political parties. In accordance with the data protection requirements, personal data may be used only for purposes provided for by law.
  - 4.2. **The obligation of registering the voters and drawing up the voter register and the voter lists.** (Compilation of voter register may be



optional; see: **1.2. Types of registration of voters and of voter lists, 8.1. Voter lists for parliamentary elections.**) Of course, this is evidence but an indispensable element of the legislation.

- 4.3. **The addressee(s) of the above obligation.** In several countries the central electoral committee is responsible for the registration of voters, whilst in other countries the electoral bodies acting in the constituencies are obliged to draw up the voter lists. In some countries it is the obligation of governmental or local authorities. Depending on the IT support and the traditions any solution may be rational but the legislation has to clearly define the subjects of this obligation.
- 4.4. **Authorities contributing to the registration of voters.** Out of the authority primarily responsible for the registration of voters there are several other authorities which have to contribute to this duty. For example, where there is a population registration system the authority responsible for the maintenance of this system should present the data of voters, courts or other authorities keeping the files of criminals should inform the election bodies of disfranchised persons. The legislation has to exactly specify all the contributing authorities.
- 4.5. **Rights and duties of the authorities mentioned in the above two points.** It is the obligation of the legislation to precisely enumerate the rights and duties of every authority participating in the registration of voters and the composition of the voter register and the voter lists (see: **7. Rights and duties of the participants of the voter registration**). The law should also prescribe the connections among these authorities (e.g. the ways of communicating data).
- 4.6. **Data content of the voter lists.** The legislation should determine which data shall be collected and kept in the voter lists. As, in

accordance with the data protection principles, it is drawn up in **4.2. *Content of the voter lists*** in details, only such data should be collected and kept which are definitely necessary for the fulfilment of the purposes set forth in the legal provisions (see also: **5.5. *Data protection***).

- 4.7. **The procedure of voter registration (collecting, updating and storing the data of voter register and voter lists).** The collection and updating of the data of voter registers and voter lists is one of the most crucial parts of the electoral process. Therefore, this procedure should be precisely regulated by law, including the sources of data, the subjects presenting the data, the ways of checking the correctness of data (e.g. filtering double registrations), and the deadlines of the procedure (see also: **8.1. *Voter lists for parliamentary elections***).
- 4.8. **The obligation of informing the voters and organizing awareness campaign.** Although in all the ACEEEO member states voter lists are composed by the designated authorities (*passive registration system*), the active contribution of the voters cannot be neglected. For example, if the citizens forget to report the change of the address of residence they will not be registered at the new address and may be refused to cast a vote there. The law should prescribe the obligation of informing the citizens about their registration and their rights and duties in connection with the voter lists (e.g. the right to check the correctness of data, legal remedies, etc.). See: **5.3. *Transparency and publicity***.
- 4.9. **Provisions of data protection.** Protection of personal data is a general requirement in all the countries where the rule of law is a constitutional principle. For this reason it is important to enact the obligations of the authorities concerned in terms of data protection as well as the safety and security of voter lists and the data therein (see also: **5.5. *Data protection***).

- 4.10. **Legal remedies.** Every voter should be entitled to submit a request for legal remedy in case he/she finds any deficiency or unlawfulness in connection with the registration of voters and the voter lists. The law should precisely regulate: which persons (and – perhaps – legal entities) and in which cases are authorized to submit legal remedies, which authorities proceed in such cases and what the outcome of the legal remedy could be (see: **5.6. Legal remedies**).
- 4.11. **Allowing and supporting the activities of observers.** It is necessary to regulate by law that which national and international organizations may send observers for monitoring the electoral procedure (including the registration of voters), how the accreditation of observers should be performed, what rights and obligations the observers and the election bodies have in terms of monitoring the electoral process (see: **7.8. Election observers**).

### ***3.3. Setting up institutional background***

A national legislation can meet all of the requirements mentioned above, so it can be in accordance with international and constitutional conditions, it can be transparent, accessible, stable and flexible at the same time, predictable and so on, but if the state possesses no satisfactory administrative, institutional or technical conditions to effectuate it, the legal framework remains only an empty phrase. The following conditions should be fulfilled for the successful implementation of the registration of voters:

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1. **Establishment of institutions.** The electoral bodies<sup>3</sup> responsible for the realization of the electoral process should be established at central, regional and local level.
2. **Human resources.** Out of the establishment of the decision-making electoral bodies it is necessary to equip them with administrative staffs responsible for the preparation and implementation of the decisions as well as for the performance of the entire procedure. The preparation and training of the staff members are also important tasks. (See: **7.3. Electoral bodies, 8.1. Voter lists for parliamentary elections.**)
3. **Technical conditions.** Nowadays it is impossible to properly perform the registration of voters and compiling the voter registers and voter lists without IT support and good communication between the electoral bodies and other authorities concerned. The other technical instruments and materials (e.g. forms, certificates) are also to be procured (see: **7.2. Government and public administration, 8.1. Voter lists for parliamentary elections**).
4. **Financial resources.** It must be the obligation of the state budget to cover all the expenses of the electoral process. Of course, this requirement does not concern the costs of political campaigns conducted by the political parties and candidates (see: **7.1. Parliament**).

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<sup>3</sup> The notion of electoral bodies includes the decision-making bodies (election committee, electoral commission, etc.) and the offices performing administrative tasks.

## 4. Content of voter registration systems

### 4.1. *Conditions of suffrage and eligibility*<sup>4</sup>

It is a commonplace that voter lists include the data of individuals who are eligible to engage in the act of suffrage. The question is what the legal conditions of suffrage are in accordance with the constitutional provisions. In modern electoral systems there are two conditions of suffrage:

- age and
- citizenship

Although these conditions are rather similar throughout the ACEEEO member countries, it is worthwhile reviewing how they are regulated and applied in the practice.

#### 1. Age

Legal voting age is the same all over in the analyzed countries. Every citizen living in the region having turned eighteen years of age up to or on day of election has the right to vote. With a few rare exceptions this age limit is standard for most countries worldwide. The theoretical consideration for this solution is that 18 years is the age when an individual theoretically become mature enough to make accountable and independent decisions. However, there is opposition to having this particular age limit; moreover, some people question if it is acceptable for large segments of the society (minors under 18 years of age) to be excluded from the right to vote to elect representatives in parliament.

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<sup>4</sup> As drawn up in the List of Definitions and Abbreviations we mean – in accordance with the Latin roots of these notions – by *suffrage* the right to vote and by *eligibility* the right to be elected (passive suffrage).

### 1.1. *Suffrage under 18 years of age*

According to the supporters of lower age limits for voting, we live in an age when young people are maturing at an earlier age. Because of this young people between the ages of 16 and 18 may be mature enough to be able to vote. Of course there are many arguments *pro and con* regarding possible lowering of age limits for voting. The supporters of the lower age limit say that involvement of young people in the electoral process would increase their commitment and responsibility in public matters and politics. Supporters of the current limit that restricts voting to persons of at least 18 years of age believe that young people are too impressionable to be able to make rational decisions at the ballot box. There is a fear that permitting participation by voters younger than 18 years of age may result in their being influenced by ultra extremist views. The best protection against this is to encourage active civic education of young people in the schools to teach them about the rights and responsibilities of citizens in a democracy including the right to suffrage.

It is not our duty to decide between these opponent views and recommend the right way because both solutions may be legal and rational; therefore none of them can be regarded as the only best practice. We just wanted to draw the attention to a possible way of development of the electoral rights that should be considered when drawing up the voter lists.

### 1.2. *“Family voting”*

As mentioned above, questions have been raised regarding whether it is correct to exclude large segments of under aged populations from representation in parliamentary bodies. The advocates of the rights of children to representation in a country’s parliament understand that little children cannot be granted with the right to vote. Instead, they

support the concept of “family voting” as a means to insure that children are represented. Under this system the parents of children have the right to cast votes in the name of all children who reside with the parents. In addition parents also are able to cast their own votes. Theoretically “family voting” offers the opportunity for underage members of the population to have some measure of representation in parliament. But in practise this idea undermines the concept of each person having the right and responsibility to cast an informed vote. Although the study team recognizes that the practise of “family voting” may continue in a few countries, this study does not recommend the practise of “family voting”.

### *1.3. Eligibility*

In most countries the age limit for holding elected office and the age limit for suffrage are the same. However, some countries set higher age limits to be elected to public office. The justification of this idea is that to responsibly hold public office requires a certain level of knowledge and life experience beyond 18 years of age.

To have a higher age limit for public office such as for President of a country is fully understandable. However, for elected positions such as for parliament or for local elections the age limit to run for office should be the same as the age limit for voter suffrage.

## 2. Citizenship

Over the age limit the second condition for the right of suffrage and voter eligibility is citizenship. It is a general provision in all the ACEEEO member states that citizens of full age and living in the territory of the country have the right to vote. However, globalization, the spread of democracy throughout the world and an increase in migration for many different reasons have all contributed to an increasing interest in voting rights for

refugees, diplomats, members of the armed forces serving overseas and other people who are temporarily or permanently absent from their own country.

### 2.1. *Out of country voting*

The citizen's right on out of country voting is most common in Europe, but is found in almost every region of the world, thus in the analyzed ACEEEO member countries as well. However, the right to vote of citizens staying or living abroad is regulated in different ways. In several countries all the citizens living or staying abroad have the right to vote, whilst in other countries only those having a permanent residence address in their country (in other words: who only stay temporarily abroad) may exercise this right.

Both of these solutions may be correctly explained by legal and logical arguments. The basis of the first solution is that suffrage (and voter eligibility) is guaranteed by the constitution or other organic laws and this right cannot be restricted or withdrawn by the fact of not living in the territory of the country. Pursuant to the argumentation of the other solution, people who are not involved in the everyday life of the country, have no direct experiences of the current political and social life, and do not contribute to the expenditures of the central and local governments (they are not taxpayers there) should not get the right to vote.

As these legal provisions depend on social and legal traditions as well as on political considerations we do not take a stand on this issue. However, we have to point out that precise and detailed legal provisions are necessary but not satisfactory; the international experiences show that implementation of voting abroad causes a lot of problems in terms of a correct voter registration as well as the collection and counting of votes cast even in the developed



democracies. For this reason a precise organizational work is needed for making possible the exercise of the right to vote for the citizens staying or living abroad and, at the same time, preventing abuses. (See: **5.4. Vulnerable and specific groups**, **8.1. Voter lists for parliamentary elections**)

It is also important to note that few countries do not allow at all for their citizens voting abroad. As the registration of voters staying abroad and the counting of votes cast abroad imply a lot of problems (*see above*) this solution is much more 'comfortable' in terms of electoral administration. Nevertheless, considering that suffrage is a basic (constitutional) right, we advise to review this standpoint and to make possible voting at least for those citizens that are temporarily staying abroad.

When discussing about out of country voting, it is important to separately deal with the refugees' exercise of the right to vote. People who had to leave their native land for war, civic war or other forcible means or threats must get the right to vote in the elections of their homeland. This issue is discussed in **5.4. Vulnerable and specific groups**.

### 2.2. Suffrage of non-citizens

Regarding citizenship, in several cases persons who are not citizens of a given country may also have the right to vote. First, citizens of any European Union member state may cast their votes in another member state for the election of the members of the European Parliament. This right is precisely regulated in the electoral laws of all the member states but there are several problems in the implementation of these provisions. This issue is discussed in **8.3. Voter lists for other types of elections**.

In several countries certain groups of foreigners (especially those having permanent residence permit and refugees) have the right to vote at local government elections. The specific tasks concerning the registration of these foreigners are drawn up in **8.2. Voter lists for local elections**. We recommend granting the right to vote for non-citizens having permanent residence permit and for refugees in local government elections.

### 3. Legal exclusions

Although the general constitutional right of suffrage and voter eligibility is universally considered a basic human and legal right of each person of voting age, there are some exceptional cases when persons may be deprived of the right to vote.<sup>5</sup> The withdrawal of the right to vote must observe certain conditions according to the electoral code. Although legal exclusions and restrictions from voting have virtually disappeared from most established democracies, two of them are still constant and are based upon legal and moral precedents. Citizens who may be considered unfit to vote are those who have been convicted of a crime. Loss of voting rights due to incarceration can extend through the period of imprisonment and in some cases even longer. The other justification for loss of voting rights is to due mental incapacitation.

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<sup>5</sup> There is no agreement among legal experts whether the deprivation (withdrawal) of the right to vote or the suspension of the exercise of this right is the correct standpoint in such cases. This duality is also reflected in the corresponding legal provisions of different countries. In our opinion it is more of a theoretical rather than a practical issue because the consequence is the same: the person concerned cannot cast a vote. Hereinafter we use the notion of 'deprivation of the right to vote' referring to both cases.

### 3.1. *Conviction of a criminal offence*

Most ACEEEO member countries deny the right to vote for persons convicted of a criminal offense. Of course, this provision is not to be applied in all cases; it is limited to certain cases provided for by law. The legal precedents of the European Court of Human Rights support the right to vote to citizens being held in preliminary detention and prior to any conviction. Considering the general requirement to guarantee basic human rights as well as guarantees based upon legal statute and precedent, the following recommendations should be observed:

- a) Only a final decision of a court may result the withdrawal of the right to vote. A sentence of first instance that can be challenged may not be the reason for the deprivation (suspension) of this right.
- b) The withdrawal of the right to vote exists only during the term of an executable imprisonment. Other penalties (e.g. fine, suspended imprisonment during the term of suspension) may not be the reason for the deprivation (suspension) of this right.
- c) In specific cases the withdrawal of the right to vote may extend after the imprisonment. It should be clearly defined by law (e.g. by the Criminal Code) as to what kind of crimes – generally more serious crimes – may result such an additional punishment. The term of this penalty should be also clearly defined by law and by the decision of court.
- d) The electoral bodies responsible for compiling the voter lists should be authorized by law to have access to the data of persons deprived of the right to vote so that the names of these persons be deleted from the voter lists. It is also important to control

access to this data (e.g. the court having passed sentence shall inform the electoral body of the court's action). It is advised that the electoral body keep the personal data of these persons convicted of crimes in a confidential file to maintain privacy (see: **5.2. Completeness**).

e) Persons in custody or in detention prior to a final judgment by court must be informed of their right to vote and provision must be made by the electoral authorities and the prison officials to allow the accused the right to vote. The implementation of this legal provision requires the close cooperation between electoral bodies and prison officials. (See also: **5.4. Vulnerable and specific groups**)

### 3.2. *Mental incompetence*

The second type of legal exclusion from voting pertains to persons who due to mental disability are unable to function on their own behalf in society. Persons who suffer from mental disabilities may or may not be deemed by the courts to be able to exercise their basic legal rights including the right to vote. According to the legislation of all ACEEEO countries citizens who are judged by a court of law to suffer from a permanent mental disability that impairs their ability to function on their own behalf, may be prevented from exercising their right to vote.

There are many advocacy groups across Europe who strongly advocate for the right of persons with mental and physical handicaps to vote. In 2002 the United Nations sponsored a conference in Sigtuna, Sweden, which issued a declaration in support of the right of persons with mental disabilities to be able to exercise their right to

vote. Also in November 2009, one of the bodies of the EU ratified The United Nations Convention on the Rights of Persons with Disabilities, which guarantees full human rights to all persons with disabilities including those with mental disability.

It is important to point out that persons with physical disabilities must be guaranteed the right to vote and to accomplish this will require additional measures by the electoral bodies to provide full access. (See in **5.4. Vulnerable and specific groups.**)

Mental disabilities require a more thorough examination because the gravity of the disability may differ significantly and may have an effect on the voter's capability to vote. It is worth noting that – depending on the gravity of mental disability – courts may decide on the deprivation of all the basic rights including the right to vote or they only restrict the exercise of several rights. Considering these circumstances, we recommend to consider the following:

- a) Only the final decision of a court may result the exclusion of a mentally disabled person from the exercise of the right to vote.
- b) If a court rules that a person has total legal incapacity then automatically the voter would lose the right to vote. However, if a court determines that a person's mental disability does not warrant the total removal of the right to make their own decisions (limited in legal capacity) then the person would still be guaranteed the right to vote.
- c) It is necessary to authorize the electoral bodies responsible for the compilation of voter lists to obtain access to the data of persons who have been deemed mentally incapacitated by the courts. Electoral authorities also are responsible to keep all such data confidential in keeping with privacy issues (see: **5.2.**)

**Completeness**). It is necessary for there to be clear rules and regulations governing the procedure by which electoral bodies can obtain information about determinations by courts as to a voter's incapacity to continue exercising the right to suffrage.

### **4.2. Content of the voter lists**

There are several data registered in the register of voters and in the voter lists. Most types of these data are similar in every country but there are also specific data registered only in few countries. The data may be divided into the following groups:

- Personal identification data
- Other data of voters
- Address of residence
- Data related to the voting
- Specific and technical data

Before analysing these types of data it is important to draw the attention that when collecting and keeping the data of voter registers and voter lists the data protection provisions and requirements should be observed. It means that only such data are allowed to process that are in connection with the electoral rights and procedure and the legislation authorizes the competent bodies to keep and use them. The connection with the electoral rights and procedure must be concrete. It means that it is not a satisfactory argument for keeping several data that they were used in a previous election. Once the reason for the use of the data passed it is not lawful to keep them any more (see: **3.2. Legal framework, 5.5. Data protection**). In other words: the data should always reflect the existing situation serving the goals of the forthcoming elections and cannot be kept in a

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retrospective way. From this point of view the data may be divided into two groups:

- a) Most data may be permanently used and require replacement in case they change for any reason. For example, the address of residence changes, the voter obtains a new identity card. In such cases the old data should be deleted and the new data should be entered in the register. There is no reason for archiving the invalid old data because they cannot be used for electoral purposes.<sup>6</sup>
- b) Some data are directly connected to a particular election. For example, in most countries it is recorded if the voter appeared at the polling station and cast a vote. He/she has to sign the voter list, or the serial number of his/her identity card or voter certificate is recorded there. It is important when counting the votes (comparing the number of ballots to the number of voters), checking the double voting or – where the voting is compulsory – checking if the voter fulfilled his/her obligation. However, when the entire electoral process, including the legal remedy procedures, is closed the data used only in this electoral procedure should be immediately destroyed.

The above recommended limitation refers only to the data of individuals. It is not contrary to the data protection if these data are used for statistical purposes (and these statistics are archived for a long time) or the data not concerning to individuals are archived (e.g. the territory of constituencies and polling districts).

Approaching the subject of data groups, we recommend observing the following statements:

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<sup>6</sup> This standpoint refers only to the data of voter registers and voter lists. There are several registries kept by authorities where the archiving of old (invalid) data is an obligation of these authorities. For example, the population registrations generally keep all the data of a person during his/her lifetime (e.g. previous names, addresses of residence, serial numbers of invalid or withdrawn identity documents) because these data may be used in administrative, law enforcement or judicial procedures. However, these grounds do not exist in terms of voters' registration.

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## 1. *Personal identification data*

The purpose of these data is to identify the voter and to prevent possible abuses (e.g. double voting, proxy voting where it is not allowed) this way. Some of these data are identical in all countries: name, place and date of birth. Out of these data there are additional data everywhere which, in accordance with the national legislation, are necessary for the identification of a person. Such data are for example: gender, father's name, mother's name.

Out of the above natural identification data artificially generated data of voters are also registered. This is typically the personal identification code or number of the person or the serial number of an identification certificate (e.g. ID card or passport). The use of data which generally do not change during the lifetime of a person facilitate the continuous keeping and updating of voter lists. For this reason we recommend applying the personal identification code in the electoral process or – where such code do not exist or the law does not allow the use of this code for such purposes – constituting a specific 'voter code' for this purpose.

Our standpoint is that those data – and only those data – should be recorded and kept in the voter registers and voter lists as identification data that are necessary for the unambiguous identification of a voter.

## 2. *Other data of voters*

In several countries there are other data of voters registered. Most of these data are also useful for the smooth implementation of the electoral procedure or for the exercise of the voters' rights. For example information of the permanent physical disability of a voter may facilitate to make possible for these persons to cast their votes (e.g. members of the returning committee visit them at home). The registration of citizenship may be important where a certain group of foreigners can participate in some types of elections (e.g. foreigners having permanent residence permit may vote at local elections). On the other hand: if this opportunity is not available for foreigners the registration of citizenship is



absolutely unjustified. In some countries one can find other data registered that are irrelevant in the electoral process (e.g. marital status, number of minors in the family). The registration of such data is abuse of the constitutional rights. In our opinion only those data of voters should be recorded and kept which promote the success of the electoral procedure and/or the exercise of the voters' rights.

### 3. *Address of residence*

The registration of the address of residence is an indispensable element of the voters' registration because this is the condition of compiling the voter lists according to the polling districts and polling stations. However, this is the most crucial part of the data of voter registers and voter lists. As drawn up in **5.1. Accuracy** most part of the complaints and problems is in connection with the registration of addresses. There are many kinds of reasons for these problems. For example, the voter moves from the registered address but 'forgets' to report it to the competent authority, the change of address is registered but the authority responsible for the registration neglects to inform the electoral body responsible for the registration of voters. These issues are also drawn up in **7.5. Individuals and 8.1. Voter lists for parliamentary elections**; here we only deal with the topic of data content (which data are necessary to collect here). Based on the international experiences, we recommend the application of the following methods:

- The base of the registration should be the address of permanent residence.
- The law should prescribe the deviations from this principle. Such deviations may be for example: registration of internally displaced persons, registration of homeless persons (see: **5.4. Vulnerable and specific groups**).

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- The registration of voters staying (or living) abroad requires specific legal provisions and procedure (see: **5.4. Vulnerable and specific groups, 8.1. Voter lists for parliamentary elections**).
- Specific legal provisions and procedure should be applied concerning several groups of voters staying off their permanent address of residence. Such groups are for example voters performing military service, voters staying in health or recreation institutions, voters in detention (see: **previous references** )
- In several types of elections the law should allow for voters to vote in a polling station other than the one according to his/her permanent address of residence. Of course, reliable procedural measures should be applied to prevent abuses of this opportunity (see: **8.1. Voter lists for parliamentary elections**).

### 4. Data related to the voting

There are several data to be registered which are connected to the site of voting and the fact of voting. These are as follows:

- 4.1. Data of constituencies. The territory of constituencies is determined by the government or the parliament and the national authority (e.g. the central electoral commission) responsible for the registration of voters should keep a register of them. **The register of constituencies include:**
  - Type of the constituency (e.g. individual constituency, constituency for party lists)
  - Serial number of the constituency
  - Name of the constituency (or name of the settlement where the electoral body of the constituency resides)

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- Territory of the constituency (the list of settlements belonging to the constituency; in case a large settlement includes two or more constituencies the boundary lines – for example the naming of the streets – separating the constituencies should be also recorded).

When the compilation or updating of the voter lists is performed the serial number and/or name of the corresponding constituency should be added to the data of every single voter.

Of course, the above methods are not to be applied where the parliamentary elections are performed by national (party) lists.

**4.2.** Data of polling districts. It is generally the local electoral body (or the head of the administrative staff supporting the work of the electoral body) which decides on the territory and boundaries of the polling districts. Accordingly, it is the duty of the electoral body in question to keep a register of the polling districts. The data of this register should be as follows:

- Name and/or serial number of the polling district
- Address of the polling station
- List of streets and other public domains (square, road, way, etc.) belonging to the polling district.

When the compilation or updating of the voter lists is performed the serial number and/or name of the corresponding polling district should be added to the data of every single voter. Where the registration of voters is performed centrally it is convenient if the local electoral bodies send the data of polling districts to the keeper of the central registry. In this case a suitable computer program can select and collect the voters of each polling district (producing the voter lists) by comparing the

address data of the citizens and the list of public domains of the polling districts.

- 4.3. Registration of the fact of polling. It is important to register if a voter cast his/her vote in order to prevent (or ascertain) double voting and, in the countries where voting is compulsory, to check if the voter has fulfilled this obligation. The typical way of registering the polling is that the voter has to sign the voter list when taking over the ballot(s) or a member of the returning board enters the number of the identity card or voter certificate to the name of the voter on the voter list. As drawn up in the introductory part of this chapter, we recommend that these data should only be kept until the end of the entire electoral process including the legal remedies and other procedures (e.g. criminal procedure if double voting is suspected). After the closure of these procedures these data (i.e. the voter lists used by the returning boards) should be destroyed.

In some countries other methods are also applied to prevent abuses; for example marking the hand or a finger with invisible ink, stamping the voter certificate. As these methods are out of the topic of voter registration we do not add comments to them.

### 5. *Specific and technical data*

Out of the data described above there are two additional types of data recommended to employ:

- 5.1. Data of persons deprived of the right to vote. As discussed in **4.1. *Conditions of suffrage and eligibility*** some people are deprived of the right to vote. Citizens who may be considered unfit to vote are those who have been convicted of a crime. Loss of voting rights due to incarceration can extend through the period of imprisonment and in some cases even longer. The other justification for loss of voting rights is to due mental incapacitation. It is recommended to keep a specific

register of these persons where the voters' register is centrally kept. If this register is continuously updated by the notifications of courts or other authorized bodies it may significantly increase the accuracy of the voter lists. Of course, these data should be kept as confidential ones, namely only officials authorized by law may have access to them in connection with the electoral rights and procedures.

- 5.2. Serial numbers of voters. When compiling the voter lists voters are usually registered in alphabetical order according to their surname. In some countries other order is used when listing the voters (e.g. by populated centres, streets, houses, flats). On the voter lists every voter should get a serial number. When informing the voter of his registration (see: **5.3. Transparency and publicity, 8.1. Voter lists for parliamentary elections**) this serial number should also be communicated.

### 6. *Different data on voter registers and voter lists*

Voter registers and voter lists can be prepared in two versions. The first version contains every data of the voter and is used by the electoral bodies. The second version is public; it is also displayed for inspection that is why only the most necessary data can be enclosed in it to ensure the security of personal data (see also: **5.5. Data protection**). Especially identification numbers are prohibited to be published in several countries. Considering the data protection requirements we recommend to distinguish between the data of voter registers and voter lists used for official purposes (containing all the data recorded) and the data of voter lists published for individual and public inspection (where sensitive data – e.g. personal identification number – are not included).

## 5. General requirements

This chapter collects the requirements originated from international agreements and recommendations. When performing the registration of voters in a lawful and fair way these requirements should be observed.

### 5.1. Accuracy

In general accuracy means that data of voter lists are precise and reliable. This requirement makes necessary the fulfilment of the following conditions:

1. The data of voter lists should be in harmony with the legal provisions. All the data prescribed by law must be recorded and no data can be recorded that is not provided for by law.
2. The data should reflect the real data and characteristics of voters. Most problems occur at the registration of personal identification data and the address of residence from this point of view.
  - As to the personal identification data, it often occurs that data of the voters recorded in the voter lists do not match the data of certificates (e.g. ID card) presented by the voter at the polling station. For example, the voter has a new ID card but the voter list contains the serial number of the old (invalid) ID card, or the name of the voter is not written exactly in the same way in the voter list and in the identification document. The general requirement is that identification data of the voter list match the data of the identification document to be presented by the voter. The fulfilment of this requirement demands a precise cooperation between the authorities responsible for the registration of the population (or the registration of issued identification documents) and the electoral

bodies. Where there is no such registration or the registration must be completed with the collection of data from the voters on the spot the officials performing this task must work very carefully when registering the data of voters.

- The registration of the address of residence causes a lot of problems during the compilation of voter lists. One of the problems is that in most countries there is no reliable registration of potential addresses where people may reside or stay. It may result that several people are registered at fictitious (not existing) addresses or the registered address cannot be identified. The development and maintenance of the address registry is not the duty of electoral bodies. However, it is recommended that electoral bodies propose for the competent authorities to develop the authentic registry of addresses.<sup>7</sup>

The other problem is that several people do not live at the address of residence registered by the competent authority and they can only face the problem of non-registration when they go the polling station. Reducing the number of such cases is strengthening the civic discipline, informing the citizens of their rights and duties (see in details: **5.3. Transparency and publicity**).

It is also to be considered that several voters temporarily stay away from their permanent residence at election day. As proposed in **5.4. Vulnerable and specific groups, 8.1. Voter lists for parliamentary elections**, suitable measures should be applied for handling these cases and making possible for these voters to exercise their right to vote.

The next problem is the precise registration of address of voters abroad. The registration of these voters cannot be implemented

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<sup>7</sup> The registry of addresses may facilitate the professional activities of several other authorities, too. (For example: law enforcement bodies, courts of justice.)

without the active contribution of these persons. If the law allows to vote abroad only for citizens having a permanent address of residence in the home country than they can be registered according to this address and – by their request submitted before elections (and not on election day) – their data should be deleted or marked in these voter lists and recorded in the voter lists of out of country voting (see. **4.1. Conditions of suffrage and eligibility, 5.4. Vulnerable and specific groups**).

Where the law allows voting for every citizen living abroad whether they have residence in the home country or not specific registers should be applied and it depends on the will of these citizens if they want to be registered (see: *previous references*).

3. The data should be updated and reflect the timely situation. As drawn up in **1.2. Types of the registration of voters and of voter lists** we recommend keeping permanent voter registers instead of the registration of the voters before every single election. Of course, this permanent registry should be updated and follow the changes. The ways of updating are as follows:
  - *Permanent updating*. It means that any changes concerning the list of voters or the data of registered voters are recorded in a real time manner. Such changes are for example: a voter deceased, a citizen came of age, a foreigner obtained citizenship, or a voter changed the address of residence. The permanent updating is the best way for having accurate voter lists. Of course, it can be realized if a reliable population register exists and there is online connection between this register and the registration of voters that makes possible to automatically record the changes of data.
  - *Updating before elections*. For the limited time-frame and the large number of changes that have happened since the last



elections this is not a recommended way for updating the data of voter lists only before elections.

- *Updating once in every year and before elections.* In case there is no way for permanent updating by online connection this is the best solution for keeping the accuracy of the voter lists. In case of by-elections the data of that constituency are necessary to update where the by-election will take place.
- *Updating after the publishing of the voter lists.* The voter lists are publicized several days before election day (see: **5.3. Transparency and publicity, 8.1. Voter lists for parliamentary elections**). However, changes may happen during this relatively short period as well (voters move to another address of residence, etc.). These changes may influence the suffrage of the voters and this way the results of elections. Therefore it is important to continue the updating of the voter lists until election day. Specific measures should be applied for following these changes and updating the voter lists in a reliable way (see: **8.1. Voter lists for parliamentary elections**).
- *Updating the data of constituencies and polling districts.* As drawn up in **4.2. Content of voter lists**, it is important to precisely register and update the data of constituencies and polling districts. In our opinion the changes in this field should be immediately updated when the decision of the competent body was made.

### 5.2. Completeness

The requirement of completeness means on the one hand that all the voters having the right to vote should be registered and, on the other hand, all the data prescribed by law to be registered are really included in the voter lists.

1. Registration of every voter. Theoretically it is possible but practically impossible to register every single voter. However, the electoral bodies have to strive for registering all the voters. For example, in case only one per-thousand of voters are missing in the voter lists it means about 8-10 thousand persons in a country with a 10 million population. As noted in **1.2. Types of the registration of voters and of voter lists** the best way for compiling complete voter lists is the transfer of the corresponding data from the population register. Of course, especially when there is no population register or it is not reliable, additional measures should be applied for the registration of the entire voter population. These methods are discussed in **5.4. Vulnerable and specific groups and 8.1. Voter lists for parliamentary elections**; here we only call the attention to those groups of voters whose registration requires particular attention:

- Homeless persons
- Internally displaced persons
- Refugees
- Voters abroad
- Voters living in remote areas
- Groups of voters staying temporarily away from their residence (military service, imprisonment, etc.)

2. Registration of all the data of voters. The other requirement of completeness is that all the data of voter lists stipulated by law (see: **3.2. Legal framework, 4.2. Content of the voter lists**) shall be included. If any data of a voter are missing it would encumber or even hinder the

identification of the voter in election day. The problem is the same if the exact data of the address of residence are missing because it would detain the electoral bodies from determining the constituency and the polling district where the voter belongs to. It is also very important that data of the constituencies and polling districts be registered (see: **4.2. Content of the voter lists**).

### **5.3. Transparency and publicity**

To build confidence in voter registration, it is inevitable to ensure the transparency of voter registration and the publicity of voter register and/or voter lists.

1. Transparency of voter registration procedure. Transparency of voter registration means that provisions regulating the procedure of voter registration and the procedure should be transparent for the voters, the political parties and candidates combating for the votes as well as for the observers monitoring the legality and accuracy of the electoral process. These participants of the electoral process should be given the right and opportunity to follow the collection and registration of voters and to notify if they find any deficiency or irregularity. (See also: **5.6. Legal remedies, 7.8. Election observers**.)
2. Transparency and publicity of voter lists. The purpose of transparency and publicity of voter lists is dual. First, strengthening the confidence in the electoral process and activities of the electoral management and secondly, promote the accuracy and completeness of the voter lists. The realization of these purposes necessitates making possible for the voters to check if they are enrolled and the voter lists contain correct data of them. It is also important to authorize all the participants of the electoral process (or at least all the voters) to notify any deficiencies, mistakes or irregularities.

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- a) *Exercising the rights of the data subjects.* The voter register and the voter lists have to be recognizable for individuals. The voters shall be able to control if they are enrolled or not. It is also the individuals' right to check if their data are correctly registered. In case they are missing from the voter register or the voter lists or their data are not accurate they must have the right to submit a claim for legal remedy (see: **5.6. Legal remedies**). In accordance with the international practice this right is the due of the individual concerned.
- b) *Notification of mistakes and irregularities.* While the notification of missing from the voter list and the petition for correcting false data is generally the exclusive right of the individual concerned, in many states all the voters have the right to check also the data of other voters and submit a complaint if he or she finds that some ineligible persons are on the list. Such cases may be for example: a person deprived of the right to vote is registered (see: **4.1. Conditions of suffrage and eligibility**), data of a deceased person were not deleted; a person not having residence in the territory of a constituency or polling district is enrolled there. (See also: **5.6. Legal remedies**.)
- c) *Ways of access to data; publicity.* In order to be familiar with the data of voter lists and to exercise the rights of voters and other participants of the electoral process it is indispensable to let them get access to the data of voter register and voter lists. The practice in this field is rather various in different countries. The recommended solutions are as follows:
- The most common way is to display the register in a visible and public place, especially in the building of the local government or electoral body or somewhere in the territory of the respective constituency or polling district. The time of the inspection can be limited for several days or weeks before election or the publicity can be ensured during the whole electoral procedure or even during the whole year if the voter register is permanent.

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- In some states the voter register is (also) available in the internet. The access to the data by internet may be restricted to a certain period before elections or (if the register is permanent) continuously during the whole year.
- There are several other ways for making the voter lists public (e.g. publicizing in local media or in the official gazette). It is the right and obligation of the national legislation to choose from among these solutions but it must be an unavoidable requirement that voter lists are to be publicized that way that anybody can get access to them.
- Considering the requirements of data protection the suggested way of publicizing the voter register and/or voter lists is that publicly available lists should not contain sensitive data of the voters. Such data are for example the personal identification number or code, the number of the identification document. It is also questionable if the data of the address of residence are also available on the publicized voter lists. (See: **4.2. Content of the voter lists, 5.5. Data protection.**)
- In several countries the voters get a notification or certificate when they are enrolled. This practice is recommended for all the ACEEEO member states because it facilitates for the voters to exercise their rights and contributes to the accuracy of the voter lists.
- Independent from the data content of the publicized voter lists, the voter should be given the right to check all the data registered of him in the voter register and the voter list. There are several way for exercising this right: (1) the notification on the enrolment contains all the registered data (2) the voter can check his/her data at the office of the local government or the electoral body (3) the voter can check his/her data via internet or email by giving the personal identification code or other data.

### **5.4. *Vulnerable and specific groups***

In the context of this handbook ‘vulnerable group’ does not necessarily mean groups of voters in disadvantageous situations. It means that certain groups of the voters require particular attention on behalf of the legislation and the electoral administration in terms of the registration of voters.

#### 1. Gender issues.

In some male-dominated traditional or conservative societal groups *women* are not encouraged to participate in elections, therefore their voter registration is not appropriately managed by their families. Authorities should ensure that women are given the same opportunities in voter registration as men. Of course, the registration of women requires particular efforts where the registration is voluntary; the enrolment depends on the will of the citizens. As all the ACEEEO member states use the passive system for the registration of voters (see: **1.2. *Types of the registration of voters and of voter lists***) there is no distinction between the registration of women and men. For this reason the registration of women does not require specific actions. In other words: women are not a ‘vulnerable group’ from the point of view of voter registration here.

#### 2. Physically disabled persons

Persons with physical disabilities must be guaranteed the right to vote and to accomplish this will require additional measures by the electoral bodies to provide full access. This means that electoral bodies must either furnish the polling stations to be fully accessible to physically disabled voters or – where for technical or financial reasons it is not possible – select polling stations that are accessible for such persons including providing wheelchair access. The first solution is irrelevant from the point of view of voter registration.

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However, in the second case it is necessary to enroll the voters concerned in the voter list of the polling stations accessible for physically disabled persons.

Several physically disabled persons cannot (e.g. bed-patients in hospitals or at home) go to any polling station. It is necessary register this fact in the voter lists and to make them possible to vote where they are staying. In such cases two or more members of the returning board should visit these persons with the ballot papers and a ballot box.

Of course these kinds of services require the preliminary announcement of these persons about their state of health in order to register it on the voter lists. For facilitating the preparations for these procedures the fact of (permanent) physical disability may be registered in the voter lists in advance.

### 3. Homeless persons.

Sorry to say there are homeless persons in every country. As the registration of voters is performed according to their address of residence, a subsidiary provision and procedure should be applied for registering them as voters. Such a solution may be for example to register them in the settlement where they generally stay. If the population register includes the data of homeless persons in the same way they will be automatically enrolled together with the other voters. In this case the electoral bodies have only one additional task: if there are more than one polling districts in the settlement, one of the polling stations should be nominated to receive homeless persons and – of course – they must be enrolled on the voter list of this polling station. In case the basis of the voter registration (e.g. the population register) does not contain the data of these persons in a reliable way, an additional duty of the electoral bodies is to find and list these persons in order to be enrolled in the voter lists.

### 4. Internally displaced persons

In some ACEEEO member states a lot of people had to leave their homes for war, civic war or other forcible means or threats and obtained temporary

homes within the territory of their country. Their condition is similar to that of the refugees from many aspects but, as they did not leave their native country, they are not regarded as refugees but as internally displaced persons. The registration of these persons in the voter lists is a specific challenge for the electoral bodies. As for political and emotional reasons their permanent address of residence is the home they had to leave and the current residence is regarded as temporary, specific legal provisions are necessary for them to be registered at their temporary address of residence. Of course, there are several other reasons why they have to be registered by the authorities (e.g. finding them dwelling, employment, providing them with social welfare). If this registration is properly performed the authority responsible for the internally displaced persons should present their data for the registration of voters.

It depends on the legal provisions whether these persons can cast their votes for the candidates and/or party lists of the constituency where they were enrolled or for those put up in the constituency where their original (permanent) address of residence is. In the first case they should be enrolled together with other inhabitants of the polling district and may cast their votes at the polling station of the district. In the second case specific voter lists should be drawn up containing their data and it is also to be decided how they can cast their votes if they cannot go to the polling stations of their original address of residence. (For example, voting by mail, voting at designated polling stations.)

### 5. Refugees

The suffrage of refugees can be approached from two directions: (1) the right to vote at the elections of their homeland that they had to leave for war, civic war or other forcible means or threats and obtained the status of refugee in another state (2) the right to vote in the elections of the country where they live as refugees.



- *Participation in the elections of the homeland.* It is recommended that states whose citizens had to leave their homes and departed abroad where they obtained the refugee status should make possible for these people to be enrolled and to participate in the elections. Specific legal provisions should regulate the ways of the registration of refugees. The generally followed practice is that refugees willing to participate in the elections should send applications to the competent electoral body where they are enrolled in a specific voter list. Generally they can vote by mail but it is also possible (especially when these refugees or a large part of them live in specific camps or settlements) to establish a polling station where they live for making them possible to vote in person. The obligation of the recipient state is to promote or at least not to hinder the exercise of the right to vote of the refugees.
- *Participation in the elections of the recipient state.* In several countries the refugees have the right to vote in the local elections (as well as in local referenda and initiatives) of the recipient country just like the other foreigners having permanent residence permit there. Our recommendation is to employ this practice where refugees are living.

### 6. Citizens staying or living abroad (out of country voting).

As drawn up in **4.1. Conditions of suffrage and eligibility** most countries allow for their citizens staying abroad to participate in national elections. However, there are two problems that should be overcome during the electoral process. First, even if the law allows for the citizens staying (or living) abroad to vote it is often practically not implementable. For example, if they can vote only in person at designated polling stations (generally at the consular offices) the citizens staying far from these sites cannot afford or organize their presence there. Secondly, if the registration is not precise abuses may occur by practicing this right. For example, they may cast their votes more times (in Central Europe it is not too difficult to visit two or three countries within a day).

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For avoiding these problems, we recommend to perform the registration of voters abroad in the following way:

- Citizens staying abroad but having permanent address of residence in the homeland shall be registered according to this address. In case they want to cast their votes abroad they have to apply for this opportunity in advance until a deadline prescribed by law. The petition may be submitted in person (e.g. at the consular office) or by mail. In this case a mark should be added to their names on the voter list and are registered in the list of voters polling abroad.
- Citizens having no residence in the homeland and the law allows for them to vote may ask for being registered in the list of voters polling abroad. This petition may be submitted only in person in advance until a deadline prescribed by law by presenting the documents (e.g. a valid passport) proving their citizenship.
- In accordance with the recommendation of the Council of Europe, there is no way to register voters at the polling station. In other words: only those citizens may vote abroad (just like within the country) who were previously registered in the voter lists.
- The voter lists containing the data of citizens to vote abroad should be checked in order to avoid the possibility of double voting.
- Voting by mail is preferred either as the only way for voting abroad or as a complementary solution by the voting in person at polling stations established abroad.

### 7. Absentee voting

Several people are not staying at their residence in election day but in another settlement or region of the country. It is important to make it possible for them to exercise the right to vote out of the polling district where they are

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registered. First, it is recommended allowing absentee voting for voters staying away from their residence in election day. Secondly, the conditions and ways of absentee voting are recommended as follows:

- The prior request of the voter at the electoral body where he/she is registered is necessary. It is not acceptable if voters are registered at the polling station where they temporarily stay without any prior petition or notification.
- The voter may submit this request in person or by mail. In both cases he/she has to present the necessary identification data in order to avoid any misuse.
- There are two ways for absentee voting: voting by mail or voting at the polling station where he/she is staying in election day. It is to be decided by the legislation which way to apply in a given country.
- In the case of voting by mail the electoral body adds a mark to the data of the voter on the voter list referring to the voting by mail and hands over (or sends by mail) to the voter the ballots and the envelopes.
- If the voter will cast his/her vote at another polling station there are three ways for handling the case (1) If the registration of voters is fully computerized and there is online connection between the voter lists of different constituencies and polling districts, the electoral body deletes the data of the voter from the voter list kept there and enters the voter's data in the voter list of the polling district where he/she will poll. (2) In the lack of the above conditions, when deleting the data of the voter from the voter list kept there the electoral body sends a message to the other electoral body about the request for absentee voting by email or ordinary mail. The latter electoral body completes the voter list with the data of the person in question. (3) When deleting the data of the voter from the voter list the electoral body issues a document for the voter that contains the identification data and certifies the right to vote. The

voter can cast his vote at another polling station by presenting this document.

### 8. Groups of voters staying away from their residence

There are several groups of voters staying away from their residence in election day where specific registration is needed to be performed by the competent electoral bodies. Such groups of voters are for example military personnel and people in detention but having the right to vote. While the absentee voting drawn up in the previous point may be performed by the request of the voter, here the active contribution of the competent electoral body is required.

It is recommended that electoral bodies of settlements or polling districts where such institutions are should contact with the management of the institution to enroll the voters staying there to make them possible to participate in the elections. The ways of polling may be the same as drawn up in the previous point. If necessary, a polling station may be established in the territory of the institution or members of the returning board may visit the institution to make possible for the voters to poll there.

### 9. National and ethnic minorities

The equal voting rights of members of *national and ethnic minorities* are crucial in a democratic society. Although the legal framework of voter registries rarely has implications to minority rights, during the practical implementation special attention is made in some countries to ensure that minority citizens are equally registered as majority citizens.

Where an accurate and reliable population register exists and the data of voter register and voter lists are taken over from there (and, of course, it includes the data of people belonging to national or ethnic minorities) there is no need for any specific action or procedure when registering these people. Where the registration of voters is performed in a traditional way by collecting the data from local authorities, field-survey and other similar ways it is important to

guarantee that regions or settlement where people belonging to national or ethnic minorities should not be left out.

The other recommended procedure is that certificates on the registration and/or any other documents on the ways of voting and the rights and obligations of citizens addressed to these people should be produced in the native language of these people as well.

### 10. Remote (rural and mountain) areas

In several regions of the world the registration of voters living in remote areas may imply a significant challenge for the electoral authorities. However, according to the experiences of ACEEEO member countries it seems that there are no difficulties with the participation in elections of the voters living in remote (rural or mountain) areas.

### ***5.5. Data protection***

There are several international agreements and recommendations determining the requirements of the protection of personal data both in terms of legislation and the practice of authorities and other institutions. In most European countries there are separate laws on the protection of personal data. The most important elements of such laws are as follows:

- Determine what personal data are, what processing (handling) of personal data means, and contain regulations on when and how and by whom these data can be processed.
- Institutionalize the function of Data Protection Commission or Commissioner and determines their legal status, rights and duties.
- Enacts to create a Data Protection Register where all the registers, databases that contain personal data must be registered, except for those

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listed in these laws. This Register is kept by the Data Protection Commission (Commissioner).

- Determines the ways of enforcing the citizens' rights provided for by this law.

The voter registration procedure and the voter lists are under the scope of these international documents and national legal provisions. However, the additional provisions should be included in the electoral law (see: **3.2. Legal framework**). The most important requirements of data protection to be observed are as follows:

- a) Personal data of voter registers and voter lists can be processed (used) only for the purposes of elections and – within this framework – for the purposes provided for by law.
- b) Sensitive data (e.g. data of persons deprived of the right to vote, personal identification code of voters) shall not be publicized and only those persons (e.g. members and civil servants of electoral bodies, courts in legal remedy procedures) may get access to these data whose tasks require the processing of these data and they are duly authorized to do so.
- c) The data subjects (the persons whose data are recorded) have the right to get access to their data and to get information that by whom, when and for what purposes their data were processed.
- d) The data subjects have the right to initiate legal remedy procedures in the case of any inaccuracy, deficiency or misuse of their data recorded.
- e) The authority entitled to check the observance of data protection provisions (e.g. Data Protection Commissioner, Data Protection Committee, Commissioner of Human Rights) has the right to fulfill this function related to the registration of voters and the voter lists. He/she also has the right to initiate or perform an action in case of any unlawful data processing.
- f) The authorities and other bodies processing the data of voter registers and voter lists (whether the data are recorded in electronic data carriers or in hard copies) should take the necessary safety and security measures in order to prevent any abuse or damage of the data.

### ***5.6. Legal remedies***

The right for a legal remedy is a constitutional provision in all the democratic states. It means that everybody can lodge an appeal against any judicial decision or decision of an administrative authority. Electoral law is also subject to the constitutional provisions so legal remedies are an inseparable part of the registration of voters as well.

#### a) Subject matter of the legal remedy

In most countries there are three reasons why a petition for legal remedy can be submitted and it is recommended to guarantee the right for legal remedy in these cases:

- Someone has suffrage but he or she is not enrolled (exclusion).
- Someone is disenfranchised but he or she is enrolled (wrong inclusion).
- Someone's data in voter register are wrong (wrong data).

#### b) Persons authorized to request for legal remedy

In most countries in the case of exclusion or wrong data only the person concerned has the right to submit a petition for legal remedy. There are few countries where other persons (for example members of the family) are also entitled to proceed this way. Although we do not want to express an explicit opinion on this issue we think it is the better solution if exclusively the person concerned is authorized to proceed in these legal remedy cases. Of course, it should be allowed that this person charges a legal representative (e.g. a member of the family or a solicitor) to proceed on behalf him/her.

In the case of wrong inclusion any voter (and in several countries other participants of the electoral process, e.g. political parties) has the right to protest. Wrong inclusion does not only mean the registration of persons deprived from the right to vote for criminal reasons or for mental disability. It may also mean if a deceased person is enrolled (his/her name was not deleted in the voter list) or

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someone is registered who has no residence in the territory of the constituency or polling district in question. The recommendation is to allow for any voter to submit a petition for legal remedy in the case of wrong inclusion. It may depend on the national traditions and experiences if other persons or legal entities should be given the right to proceed this way.

### c) Terms and deadlines

In most countries legal remedy procedures are allowed only in the period before elections. 'Before election' means in most cases that starting day of legal remedy procedures is the day of publicizing the voter register and/or the voter lists. The preparation of the voter lists is performed in two stages in some countries: first a preliminary register is issued and the 'final' register and voter lists are publicized after the closure of revision and legal remedy procedures. The deadline for the submission of legal remedies is generally 5-15 days before election day. However, in some countries it is allowed one day before election day or even in election day. In some countries where permanent registration is applied the persons concerned may submit petitions for legal remedy at any time but the deadline before election day is applicable in these cases as well.

We do not want to take a concrete stand in the deadline before election day. However, it should be considered that legal remedy procedures and making of well-established decisions takes some time. It is also important to note that in most countries there is a two-instance legal remedy procedure: the client has the right to apply against the decision taken at first instance to a higher electoral body or court. Considering these circumstances, it is recommended that deadline for the submission of legal remedies before election day should be settled that way that the authorities proceeding in these cases have enough time to decide in an established and lawful way. In our opinion it is not feasible if a legal remedy is submitted one day before election day or on election day.

The general deadlines prescribed for the administrative or judicial authorities to settle legal remedy cases are too long for the electoral procedure. That is why the



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legal provisions of different countries ordain deadlines significantly shorter than the general ones. The term for decision is generally 2-5 days but in the countries where legal remedies may be submitted 24 hours before election day or on election day this term takes only some hours. Our recommendation is the same as above: the term for decision-making should be settled that way that the authorities proceeding in these cases have enough time to decide in an established and lawful way.

### d) Form and content of the legal remedy

There is not general practice in the countries about the form and content of the requests for legal remedies. The remedy can be made typically in written form, but some national legislation enables a verbal declaration. If it is made verbally, the authority shall make an official report. Necessary particulars are specified by law. These are generally the full name and address of the individual, the reason for requesting the changes to the voter register, the documents that prove the cause for which the change is being requested. A special form is also established for this purpose in some countries. It is recommended to apply a form for submitting a legal remedy concerning the registration of voters. In case the legal and technical conditions exist (the e-government makes possible for the citizens to manage administrative and judicial cases by internet) the petition may be also submitted via internet. This solution can facilitate the procedure both for the clients and the authorities and reduces the cases when the petition is refused for a defective document submitted.

### e) Where to submit the petition for legal remedy?

There is not common practice on where the petition should be submitted. In some countries it is the authority which made the decision challenged by the petition, whilst in other countries the authority proceeding in the case is the addressee of the document. It is recommended to always submit the petition for legal remedy to the authority which made the decision. This procedure is to be applied whether the petition aims a first instance procedure or it is an appeal to a higher tribunal

against the decision settled at first (or second) instance. This method facilitates and accelerates the procedure because the proceeding authority has to get access to the documents of the challenged decision that are available at the authority that made the decision.

f) Authorities proceeding in legal remedy cases

Legal remedy in voter registration procedure usually has two instances. In first instance, the proceeding authority is generally the same who compiled the voter register. This enables that a fault made during compilation can be corrected in a short time, namely this authority has all of the essential data for judging the facts stated in a petition. Second instance can be different. In some states, when authority of first instance does not allow the complaint, it shall turn to a higher authority or to court for a decision. In this case, the submitter of the complaint has nothing to do but to wait. In other states, the submitter gets a decision and can appeal against it before a higher authority or before court.

In some countries (or in some electoral cases) there are three instances, but in the countries where the petition may submitted one day before election day or on election day there is no way to appeal against the decisions settled in such cases.

It is recommended that the authority proceeding at first instance should be the one which compiled the voter register or voter list challenged by the petition for legal remedy. It is also desirable that legal remedy procedures have at least two instances and the final decision may be settled by court. It is a constitutional requirement in most countries that decisions of the individuals refusing a petition can be appealed and the decisions of administrative authorities can be challenged at court.

### 6. Fraud

In accordance with the international experiences there is not election without frauds or at least with the attempts to commit frauds. This fact equally pertains to developed democracies and developing countries. One of the most important purposes of the registration of voters is to prevent frauds and to find out the frauds committed. In some cases the fact of fraud is evidence. For example, if someone voted twice (or more times) it cannot be a mistake or misunderstanding. However, in several cases it is very difficult to ascertain if the error in the voter list is a result of negligence or intentional fraud.

The typical frauds that may be committed during the registration of voters:

- Omission of voters from the voter lists
- Registration of persons deprived of the right to vote
- Double or multiple registration of a voter
- Abuse of out of country voting and absentee voting in the country (registering and voting two or more times)

The most important means and methods for preventing or exploring these frauds:

- Accuracy and timeliness of the state registers (e.g. population register, registration of issued identity documents, registration of civil acts) where the data of voter registers and voter lists are collected from
- Development and maintenance of a (national) database containing the voter registers as well as the data of constituencies and polling districts
- Systemic updating of the voter registers and voter lists
- Reliability and political neutrality of the officials responsible for the registration of voters

- Correct legal remedy system
- Access to the data of voter registers and voters list for the representatives of political parties and candidates as well as for national and international observers
- The registration on election day is banned
- After election day checking the data of voters who polled abroad or by absentee voting.

A specific way of abuse of absentee voting is ‘electoral tourism’. In many countries where the seats of the parliament are distributed in individual constituencies the election may be performed in two rounds if no one candidate obtained more than 50 percent of the votes cast. Sometimes there is a very small difference between the votes cast for the candidates competing in the second round. In this case supporters of a candidate living in another constituency (where the difference is not so close) may ask for absentee voting to be performed in the constituency in question in order to promote the election of the candidate representing the party they support. As it is impossible to ascertain why the voters want to poll out of their constituency the only and recommended way for preventing this ‘electoral tourism’ is either to prohibit absentee voting in the second round or it is allowed only for those who requested it before the first round.

### **7. Rights and duties of the participants of the voter registration**

There are several authorities and other institutions that participate or may participate in the registration of voters. The participation for the authorities is a legal obligation and for other institutions (e.g. NGOs, observer bodies) as well as for the voters it is (or it should be) an opportunity to exercise their rights. This chapter includes all the participants of the voter registration, whether they

directly contribute to the registration and compilation of voter lists or they have “only” general obligations or rights for the entire election system.

### **7.1. Parliament**

The parliaments of the countries have no direct responsibilities in terms of voter registration. However, in most countries they have rights and obligations for the development and maintenance of the election system including the registration of voters.

- ***Adopting laws regulating the election system.*** The most important legal provisions (in several countries all the legal provisions) providing for the right to vote and regulating the electoral procedure are enacted by the parliament. So, although the draft laws are generally submitted to the parliament by the government or the central electoral body, it is also the obligation of the parliament to follow with attention the implementation of the election law and deciding on the preparation of a new act or the amendment of the one in force, if needed.
- ***Providing financial resources of elections including the registration of voters.*** As drawn up in **3.3. Setting up institutional background**, it must be the obligation of the state (the state budget) to provide the financial resources for the development and maintenance of the election system. These resources are generally included in the state budget that is adopted by the parliament.
- ***Establishment of central (national) electoral body.*** In several countries the parliament decides on the establishment of the central (national) electoral body and elects or appoints its members (or a part of its members).

### **7.2. Government and public administration**

The government and the public administration including the local governments (hereinafter: government) have significant duties for the entire election system and also for the registration of voters. As drawn up in **8.1. Voter lists for parliamentary elections**, the role of the government in the registration of voters differs country by country. Nevertheless, it can be ascertained that it is impossible to properly register the voters and compiling the voter register and voter lists without the contribution of the government. The most important tasks and duties are as follows:

- **Elaboration of strategic issues.** As introduced in **3.1. Setting up strategy and criteria**, any further development or modification of the election system requires setting up a strategy. This task is generally the duty of the government.
- **Submitting the draft laws on elections to the parliament.** As drawn up in the previous point it is the duty of the parliament to adopt the laws regulating the electoral process. In most countries the preparation of the draft laws is the responsibility of the government.
- **Adopting the regulations of secondary legislation.** All or several parts of the procedural norms of the election system are generally not included in the acts adopted by the parliament but they are subject of the secondary legislation. These regulations or other types of legal norms are adopted by the government, the competent minister (or in some countries by the electoral bodies).
- **Providing the financial resources by preparing the state budget.** The state budget that includes the resources for the development and maintenance of the election system is adopted by the parliament. The preparation of the budget is the obligation of the government.

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- *Contribution in the establishment of regional and local electoral bodies.* Local governments and/or other institutions of public administration are responsible for the establishment and appointment of some (or all the) members of electoral bodies in several countries.
- *Providing human resources for the electoral administration.* As drawn up in **7.3. Tasks of the electoral bodies**, the notion of ‘electoral body’ in this handbook includes the staff of the electoral committees that is responsible for the implementation of the organizational and administrative tasks of the electoral process. It is the duty of the government (mostly that of the local governments) to provide the necessary number of skilled civil servants for this purpose.
- *Providing the technical equipment for the elections.* In some countries the electoral bodies obtain all the resources necessary for the development and maintenance of the election system. In this case it is their obligation to procure all the technical equipment (e.g. computers, system development for the registration of voters, printed matters, polling boxes and booths) necessary for the performance of the electoral process. In most ACEEEO member countries the governmental bodies are responsible for procuring all or a part of this technical equipment.
- *Registration of voters or contribution to the implementation of this duty.* The role of the government in the registration of voters and the compilation of voter register and voter lists is essential in all the ACEEEO member countries. As drawn up in **8.1. Voter lists for parliamentary elections**, the government’s duty may be the compilation of the voter register, compilation of the voter register together with the electoral bodies, or providing the data for the electoral bodies that are responsible for the registration of voters.

### 7.3. *Electoral bodies*

The notion of electoral bodies in this handbook includes the decision-making bodies (electoral commissions, committees, etc.) and the offices consisting of civil servants or other officials that are responsible for the preparation and the implementation of the decisions as well as for the management of the entire electoral process.

The overwhelming part of the voter registration is the right and obligation of the electoral bodies. The most important tasks are as follows:

- *Participation in the preparation of strategic issues.* As introduced in **3.1. Setting up strategy and criteria**, any further development or modification of the election system requires setting up a strategy. The contribution of the electoral bodies in this work is indispensable.
- *Participation in the drafting of laws on elections.* There is no common practice in the countries if the government or the electoral bodies (concretely: the central electoral commission) is responsible for the preparation of laws on elections. Anyway, the electoral bodies have to be involved in this procedure because most of the experiences that may induce the legislation are gathered here.
- *Issuing recommendations or compulsory directives.* In several countries the electoral bodies have the right to issue recommendations or compulsory directives for the electoral bodies of lower level or even for other participants of the electoral process.
- *Human resource management.* The status of the officials performing the administrative tasks of electoral bodies is different country by country: they are appointed employees (civil servants) of the electoral committees; the office is part of a public administration body (e.g. ministry) established for



the assistance of the electoral bodies; civil servants of public administration are delegated to the offices of the electoral bodies as full-time or part-time employees. Whichever solution is chosen, the number of officials permanently available for the electoral bodies is not sufficient for implementing the tasks at general elections. Therefore (see **7.2. Government and public administration**), it is the obligation of the government (local governments) to complete the offices by temporarily delegated public servants there. In several countries volunteers are also involved in the implementation of administrative tasks. It is the obligation of the electoral committees and the permanent staff of officials to perform training courses and to organize the work of these people.

- *Procurement of technical equipment.* Where the electoral bodies obtain all the financial resources for the conduct of elections it is their obligation to procure all the technical equipment necessary for the implementation of the electoral process. Where this is the obligation of the government, the electoral bodies have to contribute to this duty (e.g. by assessing the types and amounts of necessary equipment).
- *Registration of voters, compilation of voter registers and voter lists.* This task is generally shared between the government and the electoral bodies in the ACEEEO member states. However, the greater part of responsibility rests upon the electoral bodies. They have to decide on the methods of registration, the updating of existing registers and lists, the ways of informing the voters about the registration, etc. The detailed tasks belonging to this duty are displayed in **4.2. Content of the voter lists, 8.1. Voter lists for parliamentary elections.**
- *Registration and updating of the data of constituencies and polling districts.* **4.2. Content of the voter lists** describes what data of the constituencies and polling districts is necessary to register and continuously update by the electoral bodies.

- *Publicizing of voter registers and voter lists.* In **5.3. Transparency and publicity** it is drawn up why and how the data of voter registers and voter lists are necessary to publicize. This task includes making these data available for all the individuals and institutions (e.g. political parties, observers) authorized to check the procedure and the data content of registers and lists.
- *Informing the voters on enrollment.* Publicizing the voter register and the voter lists is not enough for informing the voters. It is also important (see: **5.3. Transparency and publicity**) to directly inform the voters of their enrollment. It is the duty of electoral bodies to decide on the ways of information (unless it is regulated by law), to have the leaflets or certificates printed, and to organize the delivery of these documents.
- *Organizing awareness campaigns.* Several voters are not aware of their rights and duties concerning the elections or they neglect to do anything in order to see if they are enrolled. For this reason the electoral bodies should organize awareness campaigns for explaining the voters their rights and duties, calling their attention to check if they are properly enrolled, and to inform them what to do in case of any deficiency or irregularity.
- *Processing in legal remedies and other announcements.* The electoral bodies have to decide on the petitions for legal remedy addressed to them and to examine other announcements concerning the registration of voters (see: **5.6. Legal remedies**).
- *Managing the requests of voting abroad and absentee voting in the country.* **5.4. Vulnerable and specific groups** describe the ways of out of country and absentee voting as well as the recommendations for managing these cases. After the publication of the voter lists the electoral bodies have to proceed in a very thorough way in order to guarantee the right to vote for the voters requesting this way of polling and to prevent abuses that may arise from this.

- *Updating the voter lists before election day.* After the publication of the voter register and the voter lists a lot of changes may happen until election day. For example: as a result of legal remedies several data have to be changed, people obtain or lose the right to vote, people decease or move to another permanent address, requests for out of country or absentee voting within the country are to be fulfilled. All these events require to enter the changes in the voter lists so that returning boards could get these lists as final ones where there is no way to make any changes.
- *Facilitating the work of observers.* It is a general practice in the ACEEEO member states that representatives of national and international (foreign) institutions are invited to observe the accuracy and lawfulness of the electoral procedure including the registration of voters and the compilation of voter registers and voter lists. The electoral bodies have to bring in the necessary measures that make possible for the observers to fulfill their duties and to take a stand in cases submitted by the observer organizations (see: **7.8. Election observers**).

### **7.4. Courts of justice**

The courts of justice have an outstanding role in the processing of legal remedies. In most countries the courts proceed at second or third instance and settle final decisions in legal remedy cases. These procedures are generally regulated by the code of civil procedure or administrative judicial procedure with some exceptions arising from the specialties of the electoral procedure. One of these exceptions is the short term (sometimes only 2-3 days) available for the courts to make a decision. This requires applying a specific organization of work in the competent courts in order to be able to decide within the deadline prescribed by law.

### **7.5. *Individuals***

In passive registration systems applied in all the ACEEEO member states where the voters are automatically registered by the authorities the voters have no obligations for being enrolled. However, it is important that voters be aware of their rights and the procedure to perform in case of any deficiency or irregularity that may jeopardize the exercise of the right to vote. It is also important to know that how to proceed if they are staying abroad or at another part of the country on election day and want to cast their vote there.

### **7.6. *Political parties and individual candidates***

Like in the case of individuals, political parties have no obligations in terms of voter registration in passive registration systems. It is for their interest to send representatives in the electoral bodies (where the parties and candidates may delegate representatives to these bodies) or send observers there to check the procedure of enrollment and the compilation of voter registers and voter lists. It is also their interest to claim for legal remedy or submitting announcements in case the meet irregularities or unlawful actions. Campaigns of the political parties may also include making the voters aware of their rights and duties.

### **7.7. *Civil society organizations (non-governmental organizations)***

Several civil society organizations (non-governmental organizations) are active in the protection of human and constitutional rights in a democratic society. It is important if the national law allows for these organizations to monitor the

electoral procedure including the registration of voters (e.g. by delegating observers) and to submit complaints or recommendations if exploring irregularities. The participation of such organizations in the electoral process increases the legitimacy of elections and the confidence of the voters in the proceeding bodies.

### **7.8. Election observers**

The rights and duties of election observers are not subject of this handbook. There are several publications issued by international organizations dealing with the observation of elections. Here we only draw the attention that activities of election observers, whether they are representatives of international organizations, foreign electoral bodies or domestic NGOs, should include the monitoring of the registration of voters and the compilation of voter registers and voter lists.

### **7.9. Media**

Media play an outstanding role in the information of people. That is why before elections the campaign messages of the political parties competing for the seats are generally transmitted by media. This is a business activity of media because the political parties generally communicate their campaign messages by paid advertisements. However, it is also important that voters get politically neutral information of their rights and duties related to elections. Many examples show that the reason why several people cannot exercise their right to vote is that they do not check in time if they are registered and it comes to light only at the polling station in election day that he/she is not enrolled (or enrolled at another polling

district). They media could help in preventing these problems by presenting information of the procedure of voter registration and explaining why the checking of enrollment is important and what could people do if they are not registered.

### **8. How to prepare voter lists**

There are different types of elections and the tasks related to the registration of voters are partly similar in every election but there are also specialties characterizing only one or some elections. In this chapter first we draw up the tasks of voter registration at general parliamentary elections and the following points only introduce the deviations from this procedure.

#### ***8.1. Voter lists for parliamentary elections***

The ways and methods of voter registration differ country by country depending on the legal framework and the technical conditions. This chapter summarizes the procedure of voter registration and the compilation of voter lists with regard to these differences. However, the recommendations (based on the best practices) strive for convincing the competent bodies of the ACEEEO member states to develop the methods of voter registration by taking over the more reliable solutions working well in other countries.

##### **1. Preparations**

Before starting the registration of voters and compiling the voter registers and voter lists thorough preparations are necessary for the successful implementation of the procedure. The most important steps are as follows:

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- **Plan and work schedule.** It is recommended to draw up a detailed plan for the registration of voters and the compilation of voter registers and voter lists. The plan to be drawn up should include (1) the listing of all the tasks to be done at central, regional and local level (2) the estimation of the human resources necessary for the implementation of the tasks (3) the technical and material requirements (4) the bodies or persons responsible for the implementation of the tasks (5) the deadlines connected to the tasks (6) the requirements of management, cooperation and communication between the responsible bodies.
- **Providing human resources.** Before and during elections the administrative staff available for the decision-making electoral bodies should be significantly increased in harmony with the duties to be done. It may be performed by involving public administration authorities in particular tasks, temporarily delegating civil servants to the electoral bodies, involving volunteers, etc. This preparatory task is very important especially in the countries where there is not reliable population register and therefore the registration of voters requires a lot of work in each settlement (see: **7.2. Government and public administration, 7.3. Electoral bodies**).
- **Procurement of technical equipment and materials.** Before the registration of voters it is important to calculate technical equipment and materials necessary for the implementation. It may include (1) to check if the available software and hardware elements of the IT infrastructure are satisfactory or development (enlargement) is necessary (2) providing the network necessary for the communication between the bodies participating in the registration of voters (3) procuring the materials (e.g. forms, printed matters) to be used for the production of voter lists.
- **Manual containing the description of tasks and procedures.** It is recommended to prepare a manual including the detailed description of all the tasks to be done when registering the voters and compiling the voter registers and voter lists. If such a manual is available prepared for the previous elections it is convenient to revise it in order to make the changes

resulting from the amended legislation and/or the experiences of the former election. The manuals should be forwarded to all the participants of the registration procedure.

- **Training.** Training courses are also recommended to hold for the participants of the registration procedure. Although a large part of the contributors have the knowledge and practice by the previous elections, it is important to ‘refresh’ this knowledge especially when some elements of the registration changed as a result of new legislation or technical development. As thousands of contributors take part in this process, it is reasonable to organize the training courses with the ‘training of trainers’ method.
- **Establishment of help-desk service.** Even if a well-prepared manual is available for all the participants of the procedure and training courses were organized for them it is recommended to establish a help-desk service because problems may occur during the registration of voters and the compilation of voter registers and voter lists that cannot be properly solved by the participants. The help-desk service would consist of legal and technical experts and easily available for all the participants of the registration procedure at any time (e.g. by phone, email, fax message).

### 2. Updating of the voter register and the additional registries

Voter register means the registration of the entire population of a country having the right to vote, whilst voter lists are the data of voter register assigned to specific polling districts. It depends on the legal framework and the technical conditions if there are only voter lists produced for every single polling district (polling station) or the data of the entire voter population is collected and kept in a central database (see: 1.2. **Types of the registration of voters and of voter lists**).

In accordance with our experiences the purposes and functions of the voter registration (see: **2. Purposes and functions of the voter registration**) may only



be fully accomplished if there is a central voter register and the voter lists of the polling districts are produced and updated by this database. That is why it is recommended that, where the financial resources allow it, the competent governmental authorities and the electoral bodies strive for establishing the conditions of a voter register. Of course, a voter register may only be accurate and reliable if there are other reliable state registries (e.g. population register, registration of citizens provided with ID cards or passports) where the data of the voter register may be collected from. As the development of such a large register (including the system development, the hardware and the communication channels) is rather costly, it is more rational to develop the registration of population first because it would be a useful database for several other purposes of the administration and the judiciary. If an accurate and continuously updated population register exists the voter register may be established and maintained by relatively less expenditures.

In the countries where voter register exists the first task of the registration of voters is updating the voter register. Of course, it does not require a separate task where the updating of the voter register is continuous and it always keeps the timely data. At the same time it is necessary to update the additional registries, namely the registry of persons deprived of the right to vote, the registry containing the data of constituencies and those of the polling districts.

### 3. Compilation of voter lists

Where a voter register contains the data of the entire voter population and the data of constituencies and polling districts is also available there all the voter lists can be centrally compiled and sent to the competent electoral bodies in an electronic way. It is also possible, although less rational, that electoral bodies acting in the constituencies and polling districts collect the data of the voters belonging to the polling districts and produce the voter lists.

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Where no voter register exists it is the duty of the local electoral bodies to locally compile the voter lists. The sources of the data are to be regulated by law. Generally it is the registration of issued ID cards (or passports) and the registration of the addresses of residence. However, in most cases additional efforts are necessary (e.g. checking the inhabitants living in the settlement) for producing an accurate voter list.

Whether the data of voter lists are downloaded from the voter register or the separate voter lists are compiled locally, it is important to pay special attention to certain groups of voters. Such groups are for example homeless persons, refugees, internally displaced persons.

#### 4. Publicizing of the voter lists and informing the voters

In order to be familiar with the data of voter lists and to exercise the rights of voters and other participants of the electoral process it is indispensable to let them get access to the data of voter lists. The practice in this field is rather various in different countries as drawn up in **5.3. Transparency and publicity**. The recommendations for the best practice are also collected there.

It is also recommended there that all the voters get a written notice or a certificate about their enrolment. This document should contain the personal identification data, data (e.g. serial number) of the constituency and the polling district, as well as the date and place of voting.

When publicizing the voter lists and informing the voters it is also recommended to call the attention of the voters in the media to check if they are registered and if not or their data are not correct they should submit a claim for legal remedy (see: **7.9. Media**).

In order to inform the voters in due time and to have enough time for handling the legal remedies and other claims of the voters (e.g. voting abroad) it is recommended to publicize the voter lists at a relatively long time (e.g. 60 days) before election day.

### 5. Tasks after the publication of the voter lists

Although it is a principle that publicized voter lists have to contain correct and timely data there are several reasons why amendments should be made in these list. The most common reasons are as follows:

- *Loss of suffrage after the publication of the voter list.* Some voters decease; the decision of a court on the deprivation of the exercise of rights comes into force; someone loses his/her citizenship. In such cases the competent electoral bodies have to delete the data of voter from the voter register and the voter list.
- *Obtaining suffrage after the publication of the voter list.* As a result of general amnesty or individual pardon or the expiry of the punishment the person previously deprived of the right to vote have full legal capacity again; a person is naturalized or attained the voting age. In such cases the competent electoral body has to complete the voter register and the voter list with the data of the person in question. In order to avoid the correction (completion) of the voter lists with the data of persons who attained the voting age between the publicizing of the voter lists and election day it recommended to register them before publicizing the voter lists. The fulfilment of this duty and the one drawn up in the previous paragraph requires the communication between the electoral bodies and the authorities decided in these cases.
- *Completing the voter lists with missing data.* As a result of legal remedies, claims or notifications of different institutions authorized to do so it may happen (and in fact it happens indeed) that several voters are not registered. In case it is clearly certified that a person has really the right to vote and he/she was not enrolled for an administrative mistake he/she should be additionally registered. It may also happen that someone is registered but not in the polling district where he has a residence. (For example, the authority neglected to report the change of the residence to

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the competent electoral body.) In such cases it is not enough to register the voter in the proper polling district but he/she should be also deleted from the voter list where he/she was previously registered.

- *Correction of false data.* Some claims for legal remedy may aim at the correction of false data of voters (e.g. the name is not written properly). As a result of such claims the voter registers and voter list should be corrected.
- *Request for out of country voting.* Where the national law allows out of country voting several voters registered at polling districts in the country may notify they want to cast their votes abroad. In such cases they are to be registered in the list of voters abroad. They are not to be deleted from the voter lists but a mark should be added to their names indicating the fact of out of country voting.
- *Request for absentee voting.* Where the national law allows absentee voting several voters registered at polling districts in the country may notify they want to cast their votes in another polling station where they will temporarily stay at election day. In such cases, depending on the IT support of the registration system, there are two ways (1) the name of the voter is deleted from the voter list and added to the voter list of the polling station where he/she will cast the vote (2) the name of the voter is deleted from the voter list and he/she is given a certificate containing his/her identification data, the fact of enrolment and the data (e.g. name and serial number) of the polling district where he/she may cast the vote.

Several days before the election day the voter register have to be closed. Usually, this is the time of printing voter lists also. Closing has to be verified by signing and stamping by the authority responsible for the registration of voters and by indicating the total number of voters enrolled. These final lists comprise all of the changes which were made as a result of legal remedies, petitions and ex officio

updating. Ideally these lists are accurate and harmonize totally with the facts. These voter lists get to the polling stations.

The date of closing the voter lists is very different in the countries. We recommend determining this date close to election day (e.g. 1-3 days before election day) and prohibiting to make any changes on the voter lists after this date.

### ***8.2. Voter lists for local elections***

Local elections generally include several types of elections: election of the members of local governments at different levels (settlement, district, county, etc.), election of mayors, election of other officials, etc. The most typical differences related to the registration of voters and the compilation of voter lists compared to the parliamentary elections are as follows:

- Constituencies. The constituencies are quite different than at parliamentary elections. A constituency generally includes the territory of a local government (one or more settlements belonging to the same local government). In several countries the larger settlements are divided into smaller constituencies as well. Nevertheless, these constituencies are generally significantly smaller than those at parliamentary elections. It is also important to note that, where the voters vote for more than one representative or function the constituencies are different regarding these representatives or functions. For example: the members of the local government are elected in constituencies that are parts of a settlement, as to the election of the mayor the entire settlement forms one constituency, and at the election of members of regional or county government this territorial unit may be one constituency.

The above situation requires the registration and continuous updating of the data of constituencies independent from the data of parliamentary constituencies. In case a country has a central voter register generated from

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the data of population registration the best solution is if the data of constituencies connected to local elections are also registered there. In this case the registration of voters can be performed the same way as at parliamentary elections. If this central register does not exist the electoral bodies have to keep the data of these constituencies in accordance with their competence (by local, county, regional, etc. electoral body).

- Groups of voters. In several countries the groups of voters differ from those voting at parliamentary elections. It is a general rule that only citizens of the country may vote at parliamentary elections. However, in local elections some groups of non-citizens also have the right to vote in many countries. These people are for example refugees staying in the country, foreigners having permanent residence permit. The other difference is that in some countries the law on elections determines even for the citizens a certain period for living in a settlement for the right to vote at local elections. For example, only those citizens can vote who have had a permanent residence in the settlement at least for six months (or a year).

When registering the voters and compiling the voter lists the differences regarding the groups of voters should be observed. For example, the registration of non-citizens having the right to vote is also necessary. If their data are recorded in the population registry and the data of voter registers and voter lists are collected from there the completion of the voter lists with the competent foreigners does not require any additional activity. In case they are not registered there their data should be collected separately by the support of the alien administration. The same additional efforts are necessary if the law prescribes other specialties regarding the groups of voters.

- Out of country voting, absentee voting. Many countries where out of country voting and/or absentee voting is allowed at other types of elections

it is not allowed at local government elections. This regulation simplifies the compilation of the final voter lists; it is not necessary to modify the lists with the data of citizens not voting at the polling station of their address of residence. If the law allows such types of voting the procedure is the same as at parliamentary elections.

### ***8.3. Voter lists for other types of elections***

The most frequently performed types of elections are as follows:

- a) Election of the president of state. Where the president of the state is elected directly by the citizens this election should be performed the same way as the parliamentary elections regarding the registration of voters with one exception: it is not necessary to arrange the voters in groups by constituencies because the entire territory of the country is one constituency.
- b) National referendum, initiative. In the case of national referendum or initiative the tasks of the registration of voters and the compilation of voter registers and voter lists are the same as at the election of the president of state.
- c) Local referendum, initiative. In the case of local referendum or initiative tasks of the registration of voters and the compilation of voter registers and voter lists is the same as at local government elections. The only exception is that it is not necessary to distinguish between different constituencies because the territory of competence of the local government which is the addressee of the referendum (initiative) forms the constituency.
- d) Election of the members of the European Parliament. In member states of the European Union there is a special mixed registration system. Union citizens who are residing in other member state country than the one they are citizens of, can cast their ballot on election of members of European

Parliament in the country where they reside. The only condition is filing a request in which they notice that they wish to be included in the voter register, state their nationality and address in the country of residence, state the constituency or the area in the home state where they were last included in the electoral roll, and give assurance that they will not vote in another member state. Notification that someone has been included in the voter register shall be sent to that election authority in the state where the voter is a resident.

This election charges the electoral bodies of the EU member states with the following additional tasks:

- They have to register the citizens of other EU member states and include them in the voter lists.
- The electoral authorities of the other member states should be informed of the registration of these citizens.
- The electoral bodies having got the information have to check if the voters in question are enrolled there. If so, they have to delete them from the voter lists (in order to avoid double voting). If the voters requesting out of country voting are not enrolled, they have to inform the electoral body of the other country about it so that they should not register the voter.

The proper implementation of the above tasks requires the cooperation with the electoral bodies of the countries concerned.

## 9. Recommendations, best practices

This chapter summarizes the recommendations and best practices drawn up in the previous chapters.



### ***9.1. Purposes and functions of the voter registration (Chapter 2)***

The legal provisions should particularly regulate the cases where the data of voter lists may be or should be applied. The main purpose of voter registration is to proof those who have the right to vote and to prevent abuses by double or multiple voting. Another important purpose of voter registration is informing the individuals on being enrolled. The additional proposed functions to be regulated:

- Checking the supporters of candidates and political parties
- Checking the eligibility of individual candidates and candidates on the lists of political parties
- Checking the members of electoral bodies
- Checking the right of individuals to initiate specific actions
- Drawing the boundaries of constituencies
- Drawing the boundaries of polling districts
- Utilization of voter lists for political campaign purposes
- Utilization of voter lists for statistical analysis

### ***9.2. Designing voter registration system (Chapter 3)***

#### **1. Setting up strategy and criteria (Sub-chapter 3.1)**

a) It is convenient to analyze the experiences of the voter registration after every general election and to find the “weak points” of the system as well as the reasons for these weaknesses. The most important sources of the analysis may be as follows:

- Experiences of the electoral bodies

- Findings and recommendations of the observer organizations
  - Analysis of the legal remedy procedures
  - Complaints of the political parties and candidates
  - Consideration of international standards
- b) If changes are necessary it is recommended that the authority responsible for the entire election system adopts a concept paper including the strategic goals of development and the duties of the authorities in terms of legislation as well as human, technical and financial resources.

### **2. Legal framework (Sub-chapter 3.2)**

- a) When preparing and adopting the new legal norms several requirements and aspects should be considered. The most important ones are as follows:
- Regulation of voter registration must be transparent and accessible for every actor of the electoral procedure.
  - It is especially important for the voters and the election bodies that laws in connection with voter registration should be clear, understandable.
  - Stability of legislation is also a requirement.
  - Both under-regulation and overregulation must be avoided.
- b) The following subject matters are necessary to enact for the smooth implementation of the registration of voters:
- The purposes of the registration of voters and the voter lists
  - The obligation of registering the voters and drawing up the voter register and the voter lists
  - The addressee(s) of the above obligation
  - Authorities contributing to the registration of voters
  - Rights and duties of the authorities mentioned in the above two points

- Data content of the voter lists
- The procedure of voter registration (collecting, updating and storing the data of voter register and voter lists)
- The obligation of informing the voters and organizing awareness campaign
- Provisions of data protection
- Legal remedies
- Allowing and supporting the activities of observers

### **3. Setting up institutional background (Sub-chapter 3.3)**

The following conditions should be fulfilled for the successful implementation of the registration of voters:

- Establishment of institutions
- Human resources
- Technical conditions
- Financial resources

### **9.3. Content of voter registration system (Chapter 4)**

#### **1. Conditions of suffrage and eligibility (Sub-chapter 4.1)**

- a) To have a higher age limit for public office such as for president of a country is fully understandable. However, for elected positions such as for parliament or for local elections the age limit to run for office should be the same as the age limit for voter suffrage.
- b) Regarding out of country voting we advise to make possible voting at least for those citizens that are temporarily staying abroad.

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- c) We recommend granting the right to vote for non-citizens having permanent residence permit and for refugees in local government elections.
- d) With regard to the deprivation of the right to vote for criminal offences the following recommendations should be observed:
- Only a final decision of a court may result the withdrawal of the right to vote. A sentence of first instance that can be challenged may not be the reason for the deprivation (suspension) of this right.
  - The withdrawal of the right to vote exists only during the term of an executable imprisonment. Other penalties (e.g. fine, suspended imprisonment during the term of suspension) may not be the reason for the deprivation (suspension) of this right.
  - In specific cases the withdrawal of the right to vote may extend after the imprisonment. It should be clearly defined by law (e.g. by the Criminal Code) as to what kind of crimes – generally more serious crimes – may result such an additional punishment. The term of this penalty should be also clearly defined by law and by the decision of court.
  - The electoral bodies responsible for compiling the voter lists should be authorized by law to have access to the data of persons deprived of the right to vote so that the names of these persons be deleted from the voter lists. It is also important to control access to this data (e.g. the court having passed sentence shall inform the electoral body of the court's action). It is advised that the electoral body keep the personal data of these persons convicted of crimes in a confidential file to maintain privacy (see: **5.2. Completeness**).

- Persons in custody or in detention prior to a final judgment by court must be informed of their right to vote and provision must be made by the electoral authorities and the prison officials to allow the accused the right to vote. The implementation of this legal provision requires the close cooperation between electoral bodies and prison officials. (See also: **5.4. Vulnerable and specific groups**)
- e) Regarding persons of mental disabilities we recommend to consider the following:
- Only the final decision of a court may result the exclusion of a mentally disabled person from the exercise of the right to vote.
  - If a court rules that a person has total legal incapacity then automatically the voter would lose the right to vote. However, if a court determines that a person's mental disability does not warrant the total removal of the right to make their own decisions (limited in legal capacity) then the person would still be guaranteed the right to vote.
  - It is necessary to authorize the electoral bodies responsible for the compilation of voter lists to obtain access to the data of persons who have been deemed mentally incapacitated by the courts. Electoral authorities also are responsible to keep all such data confidential in keeping with privacy issues (see: **5.2. Completeness**). It is necessary for there to be clear rules and regulations governing the procedure by which electoral bodies can obtain information about determinations by courts as to a voter's incapacity to continue exercising the right to suffrage.

### 2. Content of the voter lists (*Sub-chapter 4.2*)

- a) Only such data are allowed to process that are in connection with the electoral rights and procedure and the legislation authorizes the competent bodies to keep and use them. Therefore:
- There is no reason for archiving the invalid old data because they cannot be used for electoral purposes.<sup>8</sup>
  - When the entire electoral process, including the legal remedy procedures, is closed the data used only in this particular electoral procedure should be immediately destroyed (e.g. the signature of the voter on the voter list).
- b) The use of data which generally do not change during the lifetime of a person facilitate the continuous keeping and updating of voter lists. For this reason we recommend applying the personal identification code in the electoral process or – where such code do not exist or the law does not allow the use of this code for such purposes – constituting a specific ‘voter code’ for this purpose.
- c) Those data – and only those data – should be recorded and kept in the voter registers and voter lists as identification data that are necessary for the unambiguous identification of a voter.
- d) Out of the personal identification data only those data of voters should be recorded and kept which promote the success of the electoral procedure and/or the exercise of the voters’ rights.

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<sup>8</sup> This standpoint refers only to the data of voter registers and voter lists. There are several registries kept by authorities where the archiving of old (invalid) data is an obligation of these authorities. For example, the population registrations generally keep all the data of a person during his/her lifetime (e.g. previous names, addresses of residence, serial numbers of invalid or withdrawn identity documents) because these data may be used in administrative, law enforcement or judicial procedures. However, these grounds do not exist in terms of voters’ registration.

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- e) When recording (updating) the data of addresses of residence we recommend the application of the following methods:
- The base of the registration should be the address of permanent residence.
  - The law should prescribe the deviations from this principle. Such deviations may be for example: registration of internally displaced persons, registration of homeless persons (see: **5.4. Vulnerable and specific groups**).
  - The registration of voters staying (or living) abroad requires specific legal provisions and procedure (see: **5.4. Vulnerable and specific groups, 8.1. Voter lists for parliamentary elections**).
  - Specific legal provisions and procedure should be applied concerning several groups of voters staying off their permanent address of residence. Such groups are for example voters performing military service, voters staying in health or recreation institutions, voters in detention (see: **previous references** )
  - In several types of elections the law should allow for voters to vote in a polling station other than the one according to his/her permanent address of residence. Of course, reliable procedural measures should be applied to prevent abuses of this opportunity (see: **8.1. Voter lists for parliamentary elections**).
- f) It is recommended to register the data of constituencies. The register of constituencies include:
- Type of the constituency (e.g. individual constituency, constituency for party lists)
  - Serial number of the constituency

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- Name of the constituency (or name of the settlement where the electoral body of the constituency resides)
  - Territory of the constituency (the list of settlements belonging to the constituency; in case a large settlement includes two or more constituencies the boundary lines – for example the naming of the streets – separating the constituencies should be also recorded).
- g) When the compilation or updating of the voter lists is performed the serial number and/or name of the corresponding constituency should be added to the data of every single voter.
- h)** The data of polling districts is also necessary to register as follows:
- Name and/or serial number of the polling district
  - Address of the polling station
  - List of streets and other public domains (square, road, way, etc.) belonging to the polling district.
- i) When the compilation or updating of the voter lists is performed the serial number and/or name of the corresponding polling district should be added to the data of every single voter. Where the registration of voters is performed centrally it is convenient if the local electoral bodies send the data of polling districts to the keeper of the central registry. In this case a suitable computer program can select and collect the voters of each polling district (producing the voter lists) by comparing the address data of the citizens and the list of public domains of the polling districts.
- j) The data certifying the fact of polling should only be kept until the end of the entire electoral process including the legal remedies and other procedures (e.g. criminal procedure if double voting is suspected). After the closure of these procedures these data (i.e. the voter lists used by the returning boards) should be destroyed.



- k) It is recommended to keep a specific register of the persons deprived of the right to vote where the voter register is centrally kept. If this register is continuously updated by the notifications of courts or other authorized bodies it may significantly increase the accuracy of the voter lists. Of course, these data should be kept as confidential ones, namely only officials authorized by law may have access to them in connection with the electoral rights and procedures.
- l) On the voter lists every voter should get a serial number. When informing the voter of his/her registration (see: **5.3. Transparency and publicity, 8.1. Voter lists for parliamentary elections**) this serial number should also be communicated.
- m) Considering the data protection requirements we recommend to distinguish between the data of voter registers and voter lists used for official purposes (containing all the data recorded) and the data of voter lists published for individual and public inspection (where sensitive data – e.g. personal identification number – are not included).

### **9.4. General requirements (Chapter 5)**

#### **1. Accuracy (Sub-chapter 5.1)**

- a) The data of voter lists should be in harmony with the legal provisions.
- b) The data should reflect the real data and characteristics of voters. The general requirement is that identification data of the voter list match the data of the identification document to be presented by the voter at the polling station.

- c) For facilitating the real address data in the voter register and voter lists it is recommended that electoral bodies propose the competent authorities for developing the authentic registry of addresses.<sup>9</sup>
- d) The data should be updated and reflect the timely situation.

### **2. Completeness (*Sub-chapter 5.2*)**

The requirement of completeness means on the one hand that all the voters having the right to vote should be registered and, on the other hand, all the data prescribed by law to be registered are really included in the voter lists.

### **3. Transparency and publicity (*Sub-chapter 5.3*)**

- a) To build confidence in voter registration, it is inevitable to ensure the transparency of voter registration and the publicity of voter register and/or voter lists.
- b) The participants of the electoral process should be given the right and opportunity to follow the collection and registration of voters and to notify if they find any deficiency or irregularity.
- c) The voters shall be able to control if they are enrolled or not. It is also the individuals' right to check if their data are correctly registered. In case they are missing from the voter register or the voter lists or their data are not accurate they must have the right to submit a claim for legal remedy.
- d) All the voters shall have the right to check also the data of other voters and submit a complaint if he or she finds that ineligible persons are on the list.
- e) It must be an unavoidable requirement that voter lists are to be publicized that way that anybody can get access to them. For example:

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<sup>9</sup> The registry of addresses may facilitate the professional activities of several other authorities, too. (For example: law enforcement bodies, courts of justice.)

- The most common way is to display the register in a visible and public place, especially in the building of the local government or electoral body or somewhere in the territory of the respective constituency or polling district.
  - Where the technical conditions allow it the voter register/voter lists should be (also) available in the internet
- f) The publicly available lists should not contain sensitive data of the voters. However, the voter should be given the right to check all the data registered of him/her in the voter register and the voter list.
- g) It is recommended that voters get a notification or certificate when they are enrolled.

#### **4. Vulnerable and specific groups (*Sub-chapter 5.4*)**

- a) If particular polling stations are made accessible for physically disabled persons it is necessary to enroll the voters concerned in the voter list of these polling stations.
- b) Several physically disabled persons (e.g. bed-patients in hospitals or at home) cannot go to any polling station. It is necessary registering this fact in the voter lists and making them possible to vote where they are staying.
- c) As the registration of voters is performed according to their address of residence, a subsidiary provision and procedure should be applied for registering homeless persons as voters. Such a solution may be for example to register them in the settlement where they generally stay without registering the exact address of residence. If homeless persons are not registered in the population register this way an additional duty of the electoral bodies is to find and list these persons in order to be enrolled in the voter lists. If there are two or more polling districts in the settlement, one of the polling stations should be nominated to receive homeless

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- persons and – of course – they must be enrolled on the voter list of this polling station.
- d) Specific legal provisions are necessary for the internally displaced persons to be registered at their temporary address of residence.
- e) States whose citizens had to leave their homes and departed abroad where they obtained the refugee status should make possible for these people to be enrolled and to participate in the elections. The obligation of the recipient state is to promote or at least not to hinder the exercise of the right to vote of the refugees. The refugees should have the right to vote in the local elections (as well as in local referenda and initiatives) of the recipient country just like other foreigners having permanent residence permit.
- f) We recommend the registration of voters abroad in the following way:
- Citizens staying abroad but having permanent address of residence in the homeland shall be registered according to this address. In case they want to cast their votes abroad they have to apply for this opportunity in advance until a deadline prescribed by law. The petition may be submitted in person (e.g. at the consular office) or by mail. In this case a mark should be added to their names on the voter list and are registered in the list of voters polling abroad.
  - Citizens having no residence in the homeland and the law allows for them to vote may ask for being registered in the list of voters polling abroad. This petition may be submitted only in person in advance until a deadline prescribed by law by presenting the documents (e.g. a valid passport) proving their citizenship.
  - In accordance with the recommendation of the Council of Europe, there is no way to register voters at the polling station. In other words: only

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those citizens may vote abroad (just like within the country) who were previously registered in the voter lists.

- The voter lists containing the data of citizens to vote abroad should be checked in order to avoid the possibility of double voting.
  - Voting by mail is preferred either as the only way for voting abroad or as a complementary solution by the voting in person at polling stations established abroad.
- g) It is recommended allowing absentee voting for voters staying away from their residence in election day. Secondly, the conditions and ways of absentee voting are recommended as follows:
- The prior request of the voter at the electoral body where he/she is registered is necessary. It is not acceptable if voters are registered at the polling station where they temporarily stay without any prior petition or notification.
  - The voter may submit this request in person or by mail. In both cases he/she has to present the necessary identification data in order to avoid any misuse.
  - There are two ways for absentee voting: voting by mail or voting at the polling station where he/she is staying in election day. It is to be decided by the legislation which way to apply in a given country.
  - In the case of voting by mail the electoral body adds a mark to the data of the voter on the voter list referring to the voting by mail and hands over (or sends by mail) to the voter the ballots and the envelopes.
  - If the voter will cast his/her vote at another polling station there are three ways for handling the case (1) If the registration of voters is fully computerized and there is online connection between the voter lists of different constituencies and polling districts, the electoral body deletes the data of the voter from the voter list kept there and enters the voter's

data in the voter list of the polling district where he/she will poll. (2) In the lack of the above conditions, when deleting the data of the voter from the voter list kept there the electoral body sends a message to the other electoral body about the request for absentee voting by email or ordinary mail. The latter electoral body completes the voter list with the data of the person in question. (3) When deleting the data of the voter from the voter list the electoral body issues a document for the voter that contains the identification data and certifies the right to vote. The voter can cast his vote at another polling station by presenting this document.

- h) There are several groups of voters staying away from their residence in election day where specific registration is needed to be performed by the competent electoral bodies. Such groups of voters are for example military personnel and people in detention but having the right to vote. It is recommended that electoral bodies of settlements or polling districts where such institutions are should contact with the management of the institution to enroll the voters staying there to make them possible to participate in the elections.
- i) Where the registration of voters is performed in a traditional way by collecting the data from local authorities, field-survey and other similar ways it is important to guarantee that regions or settlement where people belonging to national or ethnic minorities should not be left out. The other recommended procedure is that certificates on the registration and/or any other documents on the ways of voting and the rights and obligations of citizens addressed to these people should be produced in the native language of these people as well.

### **5. Data protection (*Sub-chapter 5.5*)**

The most important requirements of data protection to be observed are as follows:

- a) Personal data of voter registers and voter lists can be processed (used) only for the purposes of elections and – within this framework – for the purposes provided for by law.
- b) Sensitive data (e.g. data of persons deprived of the right to vote, personal identification code of voters) shall not be publicized and only those persons (e.g. members and civil servants of electoral bodies, courts in legal remedy procedures) may get access to these data whose tasks require the processing of these data and they are duly authorized to do so.
- c) The data subjects (the persons whose data are recorded) have the right to get access to their data and to get information that by whom, when and for what purposes their data were processed.
- d) The data subjects have the right to initiate legal remedy procedures in the case of any inaccuracy, deficiency or misuse of their data recorded.
- e) The authority entitled to check the observance of data protection provisions (e.g. Data Protection Commissioner, Data Protection Committee, Commissioner of Human Rights) has the right to fulfill this function related to the registration of voters and the voter lists. He also has the right to initiate or perform an action in case of any unlawful data processing.
- f) The authorities and other bodies processing the data of voter registers and voter lists (whether the data are recorded in electronic data carriers or in hard copies) should take the necessary safety and security measures in order to prevent any abuse or damage of the data.

### **6. Legal remedies (*Sub-chapter 5.6*)**

- a) It is recommended to guarantee the right for legal remedy in these cases:
  - Someone has suffrage but he or she is not enrolled (exclusion).
  - Someone is disenfranchised but he or she is enrolled (wrong inclusion).
  - Someone's data in voter register are wrong (wrong data).

- b) It is recommended that exclusively the person concerned should be authorized to proceed in legal remedy cases for exclusion or wrong data. Of course, it should be allowed that this person charges a legal representative (e.g. a member of the family or a solicitor) to proceed on behalf him/her.
- c) The recommendation is to allow for any voter to submit a petition for legal remedy in the case of wrong inclusion.
- d) It is recommended that deadlines for the submission of legal remedies and the deadlines for the authorities to decide in these cases before election day should be settled that way that the authorities proceeding in these cases have enough time to decide in an established and lawful way. It is not feasible if a legal remedy is submitted one day before election day or on election day.
- e) It is recommended to apply a form for submitting a legal remedy concerning the registration of voters. In case the legal and technical conditions exist (the e-government makes possible for the citizens to manage administrative and judicial cases by internet) the petition may be also submitted via internet.
- f) It is recommended to always submit the petition for legal remedy to the authority which made the decision. This procedure is to be applied whether the petition aims a first instance procedure or it is an appeal to a higher tribunal against the decision settled at first (or second) instance.
- g) It is recommended that the authority proceeding at first instance should be the one which compiled the voter register or voter list challenged by the petition for legal remedy. It is also desirable that legal remedy procedures have at least two instances and the final decision may be settled by court.

### **9.5. *Fraud (Chapter 6)***

- a) The most important means and methods for preventing or exploring frauds:



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- Accuracy and timeliness of the state registers (e.g. population registry, registration of issued identity documents, registration of civil acts) where the data of voter registers and voter lists are collected from
  - Development and maintenance of a (national) database containing the voter registers as well as the data of constituencies and polling districts
  - Systemic updating of the voter registers and voter lists
  - Reliability and political neutrality of the officials responsible for the registration of voters
  - Correct legal remedy system
  - Access to the data of voter registers and voters list for the representatives of political parties and candidates as well as for national and international observers
  - The registration on election day is banned
  - After election day checking the data of voters who polled abroad or by absentee voting.
- b) The only and recommended way for preventing ‘electoral tourism’ is either to prohibit absentee voting in the second round or it is allowed only for those who requested it before the first round.

### ***9.6. Rights and duties of the participants of the voter registration (Chapter 7)***

#### **1. Parliament (*Sub-chapter 7.1*)**

Tasks of the parliament regarding the electoral system (including the registration of voters) may be as follows:

- Adopting laws regulating the election system
- Providing financial resources of elections including the registration of voters

- Establishment of central (national) electoral body

### **2. Government and public administration (*Sub-chapter 7.2*)**

The most important tasks and duties of the government are as follows:

- Elaboration of strategic issues
- Submitting the draft laws on elections to the parliament
- Adopting the regulations of secondary legislation
- Providing the financial resources by preparing the state budget
- Contribution in the establishment of regional and local electoral bodies
- Providing human resources for the electoral administration
- Providing the technical equipment for the elections
- Registration of voters or contribution to the implementation of this duty

### **3. Electoral bodies (*Sub-chapter 7.3*)**

The most important tasks of the electoral bodies are as follows:

- Participation in the preparation of strategic issues
- Participation in the drafting of laws on elections
- Issuing recommendations or compulsory directives
- Human resource management
- Procurement of technical equipment
- Registration of voters, compilation of voter registers and voter lists
- Registration and updating of the data of constituencies and polling districts
- Publicizing of voter registers and voter lists
- Informing the voters on enrollment
- Organizing awareness campaigns
- Processing in legal remedies and other announcements
- Managing the requests of voting abroad and absentee voting in the country
- Updating the voter lists before election day
- Facilitating the work of observers

### **4. Courts of justice (*Sub-chapter 7.4*)**

- a) Courts should proceed at second and/or third instance in legal remedy cases.
- b) There is a short term (sometimes only 2-3 days) available for the courts to make a decision in cases related to elections. This requires applying a specific organization of work in the competent courts in order to be able to decide within the deadline prescribed by law.

### **5. Individuals (*Sub-chapter 7.5*)**

It is important that voters be aware of their rights and the procedure to perform in case of any deficiency or irregularity that may jeopardize the exercise of the right to vote. It is also important to know that how to proceed if they are staying abroad or at another part of the country on election day and want to cast their vote there.

### **6. Political parties and individual candidates (*Sub-chapter 7.6*)**

- a) The law should authorize the political parties and candidates to monitor every single steps of the electoral process. The parties (candidates) should send representatives in the electoral bodies (where the parties and candidates may delegate representatives to these bodies) or send observers there to check the procedure of enrollment and the compilation of voter registers and voter lists. It is also recommended to claim for legal remedy or submitting announcements in case they meet irregularities or unlawful actions.
- b) Campaigns of the political parties may also include making the voters aware of their rights and duties.

### **7. Civil society organizations, non-governmental organizations (*Sub-chapter 7.7*)**

It is important if the national law allows for these organizations to monitor the electoral procedure including the registration of voters (e.g. by delegating observers) and to submit complaints or recommendations if exploring irregularities.

### **8. Election observers (*Sub-chapter 7.8*)**

Activities of election observers, whether they are representatives of international organizations, foreign electoral bodies or domestic NGOs, should include the monitoring of the registration of voters and the compilation of voter registers and voter lists.

### **9. Media (*Sub-chapter 7.9*)**

They media could help in preventing several problems presenting information of the procedure of voter registration and explaining why the checking of enrollment is important and what could people do if they are not registered.

### **9.7. *How to prepare voter lists (Chapter 8)***

#### **1. Voter lists for parliamentary elections (*Sub-chapter 8.1*)**

a) The most important steps of the preparation for the registration of voters:

- Plan and work schedule
- Providing human resources
- Procurement of technical equipment and materials
- Manual containing the description of tasks and procedures
- Training
- Establishment of help-desk service

b) The competent governmental authorities and the electoral bodies strive for establishing the conditions of a voter register. In case there is no population registry, it is more rational to develop the registration of population first.

- c) In the countries where voter register exists the first task of the registration of voters is updating the voter register. Of course, it does not require a separate task where the updating of the voter register is continuous and it always keeps the timely data. At the same time it is necessary to update the additional registries, namely the registry of persons deprived of the right to vote, the registry containing the data of constituencies and those of the polling districts.
- d) Where a voter register contains the data of the entire voter population and the data of constituencies and polling districts is also available there all the voter lists can be centrally compiled and sent to the competent electoral bodies in an electronic way. It is also possible, although less rational, that electoral bodies acting in the constituencies and polling districts collect the data of the voters belonging to the polling districts and produce the voter lists.
- e) Where no voter register exists it is the duty of the local electoral bodies to locally compile the voter lists. The sources of the data are to be regulated by law.
- f) Whether the data of voter lists are downloaded from the voter register or the separate voter lists are compiled locally, it is important to pay special attention to certain groups of voters. Such groups are for example homeless persons, refugees, internally displaced persons.
- g) In order to inform the voters in due time and to have enough time for handling the legal remedies and other claims of the voters (e.g. voting abroad) it is recommended to publicize the voter lists at a relatively long time (e.g. 60 days) before election day.
- h) Tasks after the publication of the voter lists:

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- If a voter lost his/her suffrage after the publication of the voter lists the competent electoral bodies have to delete the data of voter from the voter register and the voter list.
- If a person obtained suffrage after the publication of the voter lists the competent electoral body has to complete the voter register and the voter list with the data of the person in question. In order to avoid the correction (completion) of the voter lists with the data of persons who attained the voting age between the publicizing of the voter lists and election day it is recommended to register them before publicizing the voter lists.
- In case it is clearly certified that a person has really the right to vote and he/she was not enrolled for an administrative mistake he/she should be additionally registered. It may also happen that someone is registered but not in the polling district where he has a residence. In such cases it is not enough to register the voter in the proper polling district but he/she should be also deleted from the voter list where he/she was previously registered.
- The false data should be corrected.
- Where out of country voting is allowed the voters requesting this should be registered in the list of voters abroad. They are not to be deleted from the voter lists but a mark should be added to their names indicating the fact of out of country voting.
- In case of absentee voting in the country, depending on the IT support of the registration system, there are two ways (1) the name of the voter is deleted from the voter list and added to the voter list of the polling station where he/she will cast the vote (2) the name of the voter is deleted from the voter list and he/she is given a certificate containing his/her identification data, the fact of enrolment and the data (e.g. name and serial number) of the polling district where he/she may cast the vote.

- i) Several days before election day the voter register have to be closed. Usually, this is the time of printing voter lists also. Closing has to be verified by signing and stamping by the authority responsible for the registration of voters and by indicating the total number of voters enrolled. We recommend determining this date close to election day (e.g. 1-3 days before election day) and prohibiting to make any changes on the voter lists after this date.

### **2. Voter lists for local elections (*Sub-chapter 8.2*)**

- a) The preparation for the local government elections requires the registration and continuous updating of the data of constituencies independent from the data of parliamentary constituencies. In case a country has a central voter register generated from the data of population registration the best solution is if the data of constituencies connected to local elections are also registered there. In this case the registration of voters can be performed the same way as at parliamentary elections. If this central register does not exist the electoral bodies have to keep the data of these constituencies in accordance with their competence (by local, county, regional, etc. electoral body).
- b) In several countries the groups of voters differ from those voting at parliamentary elections. When registering the voters and compiling the voter lists the differences regarding the groups of voters should be observed. For example, the registration of non-citizens having the right to vote is also necessary.

### **3. Voter lists for other types of elections (*Sub-chapter 8.3*)**

- a) In the case of election of the president of state as well as at national referenda and initiatives it is not necessary to arrange the voters in groups by constituencies because the entire territory of the country is one constituency.

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- b) In the case of local referendum or initiative tasks of the registration of voters and the compilation of voter registers and voter lists is the same as at local government elections. The only exception is that it is not necessary to distinguish between different constituencies.
- c) The election of the members of the European Parliament charges the electoral bodies of the EU member states with the following additional tasks:
  - They have to register the citizens of other EU member states and include them in the voter lists.
  - The electoral authorities of the other member states should be informed of the registration of these citizens.
  - The electoral bodies having got the information have to check if the voters in question are enrolled there. If so, they have to delete them from the voter lists (in order to avoid double voting). If the voters requesting out of country voting are not enrolled, they have to inform the electoral body of the other country about it so that they should not register the voter.
- d) The proper implementation of the above tasks requires the cooperation with the electoral bodies of the countries concerned.



## **Annexes**

### ***Annex 1: Glossary***

**ACEEEO:** Association of European Election Officials

**Active voter registration:** Inclusion in the voter register/voter list depends on the decision of the voter

**Continuous voter registration:** Voter register is based on an initial register that is updated on a regular and ongoing basis

**Electoral body:** See **Electoral management**

**Electoral management:** Decision-making electoral bodies (election committee, electoral commission, returning committee, etc.) and officials performing administrative tasks

**NGO:** Non-governmental organization

**OSCE:** Organization for Security and Cooperation in Europe

**Passive voter registration:** Electoral management collects the data of voters ex officio

**Periodic voter registration:** Voter register and/or voter list is updated or compiled periodically (e.g. prior to elections)

**Polling district:** Territorial unit belonging to one polling station

**Polling station:** Place where voters can cast their votes

**Population register:** State register including the data of all the citizens (or all the individuals) living in the country

**UNDEF:** United Nations Democracy Fund

**Voter list:** Register including the data of voters in a polling district

**Voter register:** Register including the data of every voter in the country

**Voter registration:** process where the electoral management collects the data of those individuals who have the right to vote

### ***Annex 2: Bibliography***

A comparative analysis: Report on practical experiences of voter registration in ACEEEO member states (by Sam Younger and Ákos Zsuffa)

Code of Good Practice in Electoral Matters (adopted by the Venice Commission)

Document of the Copenhagen Meeting of the Conference on the Human Dimensions of OSCE

Guidelines for Reviewing a Legal Framework for Elections (adopted by OSCE-ODIHR)

International Covenant on Civil and Political Rights

International Electoral Standards: Guidelines for reviewing the legal framework of elections (adopted by international IDEA, Stockholm)

Theory and practice of voter registration; definitions, standards, principles, examples (by Eszter Bodnár and Attila Kaszás)