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Fourth meeting to review developments in the field of e-voting since the adoption of Recommendation Rec(2004)11 on legal, operational and technical standards for e-voting (Castle Hofen, Lochau/Bregenz, Austria 11 July 2012)

Document prepared by the Directorate General of Democracy

Directorate of Democratic Governance

1. The Committee of Ministers' Recommendation Rec(2004)11 to member states on legal, operational and technical standards for e-voting was adopted by the Ministers' Deputies in September 2004. The Recommendation invites member states to keep under review their policy on, and experience of, e-voting. With its biennial meetings on developments in the field of e-voting, the Council of Europe provides a platform for considering these developments at a European level. Consequently, the Council of Europe convened the fourth such meeting on 11 July 2012 in Bregenz, Austria to review developments in the field of e-voting since the last such meeting in Strasbourg in November 2010¹. The agenda and list of participants can be found in the appendices of this report.

2. With representatives from 13 Council of Europe member states as well as observers representing OSCE/ODIHR, IFES and E-Voting.cc present, the meeting provided an occasion to share experiences, to consider specific examples from member states and to analyse possible future advancements in the field of e-voting.

3. Written progress reports had been previously submitted by Austria, the Czech Republic, the Republic of Moldova, the Netherlands, Romania, Spain and Switzerland as well as by OSCE/ODIHR. After opening remarks by the Council of Europe Secretariat, governmental representatives gave presentations on the progress made and different developments in their respective countries.

4. The Austrian report highlighted that there is no legal basis at this time for the carrying out of e-enabled elections at the federal, provincial or local level in Austria. However, with the implementation of the European Citizens' Initiative in all EU Member States on 1 April 2012, discussions about new forms of e-participation in Austria have emerged. The parties represented in parliament currently discuss a far-reaching "democracy package". Within this framework, specific participatory tools could be strengthened and the use of electronic solutions for public initiatives is debated.

5. In light of Belgium introducing a new generation of voting machines, the representatives of Belgium informed participants on the functioning and rationale behind the new systems. The new electronic voting system will be made available to municipalities for the municipal and provincial elections of 14 October.

6. In his presentation on the development of e-voting in the Czech Republic, the representative outlined that an e-voting pilot project is aimed to be introduced in 2014, stemming from a 2010 programme declaration by the Government of the Czech Republic.

7. The representative of France informed participants that for the parliamentary elections of 2012, it was possible for expatriates to vote via the internet for the first time, in addition to traditional remote voting channels, such as postal voting. The new system attracted a large number of voters, although it led to questions and concerns among opponents of e-voting solutions regarding its verifiability and security.

¹ The report of the Third Meeting, held in Strasbourg on 16-17 November 2010, can be found in the following link:
http://www.coe.int/t/dgap/goodgovernance/Activities/E-voting/E-voting%202010/Biennial_Nov_meeting/MeetingReport_en.pdf

8. The representative of Lithuania highlighted that the adoption by the Lithuanian Parliament of draft amendments to election laws relating to the validation of voting via the internet in elections was pending, with the last reading having taken place in 2011. Cited reasons for rejection included questions of internet security and a distrust of new technologies.

9. The report of the Republic of Moldova outlined the implementation of the e-voting system as part of the 'Action Plan for the Accomplishment of the National Strategy for Information Society Development'. A key component will be the introduction of the electronic identity card for citizens in 2013 and the possible launching of e-voting systems in 2015.

10. A report of the Government of The Netherlands to the Parliament² underscored what lessons were learnt from the abolition of e-voting in 2006 and the nature of recommendations by the Korthals Altes Commission on the organisation of specifications for e-voting in the future. Of particular interest was the observation that sets of election criteria cannot be static and rather need to be repeatedly updated. These specifications, it was proposed, should be developed largely by independent experts.

11. Addressing the internet voting pilot project in the 2011 local elections, the representatives of Norway explained that the scheme aimed to provide results with more speed and accuracy, to meet generational voting expectations, and to increase availability for expatriates as well as for people with disabilities. Internet voting is possible in Norway due to widespread access to the internet and public services with complementary legislation, economical and academic resources and high levels of trust in the central election administration. Speaking of the achievements in Norway it was highlighted that this new approach to transparency provides a fully open source system with end-to-end verification of the entire electoral cycle including voter verification by using return codes, thereby building stakeholder trust. The representatives of Norway concluded that public trust is a pre-requisite to e-voting success, alongside good public infrastructure, the involvement of academia, including those with critical views about e-voting, from an early stage and a timeframe which allows at least three to four years of development to the pilot stage. It was recalled that a summary report of the Norwegian pilots would be presented in September.

12. The conclusions of the 2011 Romanian Electoral Elections Management System (EEMS) Feasibility Study, analysing the benefits of implementing such a system for the Romanian people and democratic governance, were illustrated by the Romanian report.

13. With regard to Spain, the representative of the Spanish Ministry of the Interior informed participants that this Ministry is considering the option of undertaking a non-binding internet voting pilot, particularly to test a complementary remote internet voting procedure for Spanish nationals registered at the Electoral Census of the Spanish Electors permanently living abroad (CERA). In 2011, the Organic Law on the General Electoral Regime³ was modified with the aim to increase legal certainty of the Out of Country Voting (OCV).

² Letter of the Dutch government sent to parliament on 24th of January 2012 titled: "Framework for the Development of Specifications for Electronic Voting in Elections Covered by the Elections Act".

³ Ley Orgánica 5/1985, de 19 de junio 2011, del Régimen Electoral General.

However, as this modification included a more cumbersome procedure for voter registration, it led to a considerable decrease of OCV turnout (from 31% to a scarce 5%).

14. Reporting on the evolution of e-voting projects in Switzerland, the representative of the Federal Government drew attention to the successful first use of e-voting in the Swiss federal elections of October 2011 for Swiss citizens living abroad, with up to 53% in the participating cantons (states) registered Swiss voters abroad adopting this method. These elections were also observed by OSCE/ODIHR, which produced a thorough report in January 2012. As a new voting channel, so far half of the Swiss cantons have offered e-voting with a focus on Swiss expatriates. In addition to the numerous e-voting trials at federal referenda, many cantonal and communal votes have been conducted over the past ten years (within the limitation to 10% of the Swiss electorate prescribed by the Ordinance on Political Rights). Switzerland has made the expansion of internet voting for Swiss abroad a priority and outlined a long-term aim to make such e-voting available throughout the country. The Federal Chancellery is currently preparing the third report on 'Vote électronique' since its introduction, undertaking an evaluation of trials conducted since 2006 and showing how the new voting channel is to be gradually expanded, due to be presented to the Federal Council in 2013.

15. The representative of OSCE/ODIHR reported on the experience of election observation and assessment of New Voting Technologies (NVT), drawing upon several key outlined principles. He noted that time scheduling of observation is challenging due to the longer timeframes, and further elaborated that although new, these technologies must conform to existing standards and commitments. He also pointed out that a NVT Observation Methodology would be formalised into a Handbook of NVT Election Observation in the near future.

16. In respect to the IFES/NDI's 'Guide to Implementing Electronic Voting', the representative of IFES outlined the rationale and key components of the guide. Its purpose is to present a roadmap for the implementation of e-voting technologies, drawing upon numerous case studies and building upon previous groundwork in the respective area. Moreover, the representative presented IFES's work on the assessment of the secrecy and individual verification mechanisms in the Norwegian Internet Voting System and its compliance with Recommendation Rec(2004)11. In addition, a high level of trust, due to a high level of usage, was reported, notably with positive feedback from the Electoral Management Board staff.

17. The reports prepared for the review meeting highlighted the growing body of practical experience in the field of e-voting and its application in member states. As in the previous review meetings, reports also demonstrated that the Recommendation has been widely applied by countries that are using, introducing or piloting e-voting and has become accepted as a key benchmark.

18. However, looking at the Recommendation today, bearing in mind the practical experience, technological advances and emergence of new concepts since the adoption of the Recommendation, it is plausible to infer that the Recommendation adopted in 2004 does not comprehensively address a number of significant issues and contains some ambiguities in its provisions and in the explanatory memorandum. In addition, it was noted at the review meeting that the Recommendation would benefit from a clearer distinction between provisions relating to non-remote machine voting in polling stations and to remote e-voting

over the internet. Participants also pointed to some tension in the Recommendation between recommendations of a high-level and those that address issues in great detail.

19. In light of the aforementioned, the representatives of Member States present at the review meeting **agreed to recommend that** the 2004 Committee of Ministers' **Recommendation Rec(2004)11** to member states on legal, operational and technical standards for e-voting **should be formally updated**. They asked the Secretariat to **bring this proposal to the attention of the Committee of Ministers** for consideration and possible decision. At the same time, the review meeting stressed that for such an activity to be successful, there would need to be a clear mandate, sufficient human and budgetary resources and an appropriate time frame.

20. Taking account of the difficult budgetary situation and the duration of the current budgetary biennium until 2013, the meeting suggested that an intergovernmental standard-setting activity mandated by the Committee of Ministers could commence its work at the **beginning of the next budgetary biennium in 2014**.

21. In the meantime, the budgetary appropriations available in 2013 could be used to enable **some preparatory consultancy work and informal expert meetings**. In this context, it should be noted that a number of member states represented at the review meeting (including Austria, which will hold the Chairmanship of the Committee of Ministers from November 2013 to May 2014) might be willing to consider making some **extra-budgetary voluntary contributions** to facilitate and expedite this work.

22. The above-mentioned combination of informal preparatory work in 2013 followed by a formal intergovernmental review process of Rec(2004)11 in 2014 might make it possible for the Committee of Ministers to adopt an updated Recommendation in the same year, thus marking the tenth year since the adoption of the initial Recommendation in 2004.

23. The participants of the review meeting concurred that a decision to such effect would be decisive in the deliberation as to whether the Council of Europe wishes to remain or not a widely recognised and cutting-edge actor in the field of e-voting, being the only entity capable of setting international standards in this significant aspect of democratic governance, i.e. in an area of core competence of the Organisation. Indeed, the continuation of standard-setting work in the field of e-voting would be fully in line with the Council of Europe's 'Strategy on Internet Governance 2012-2015' (doc. CM(2011)175 final, adopted by the Committee of Ministers in March 2012, reference to e-voting in paragraph 13.c).

24. Concluding the 4th review meeting, the participants agreed that the biennial review meetings were highly useful and should be continued, preferably in Bregenz/Austria, back-to-back with the biennial EVOTE conferences. This new combined meeting format, as suggested at the 2010 review, was highly appreciated. Finally, they expressed their hope that the Secretary General would continue to grant his High Patronage to the Bregenz conferences, in keeping with the practice established in 2004.

APPENDIX I

Fourth meeting to review developments in the field of e-voting since the adoption of Recommendation Rec(2004)11 on legal, operational and technical standards for e-voting

Castle Hofen, Lochau/Bregenz, Austria

Wednesday, 11 July 2012

PROGRAMME

9h30-9h45 Opening of the meeting

9h45-10h45 Short presentation by the participants of the implementation of the e-voting Recommendation and guidelines in their countries

10h45-11h00 Coffee break

11h00-12h30 Continuation of the presentations - discussion

12h30-14h00 Lunch

14h00-15h30 Discussion of main issues resulting from the implementation of the Recommendation and guidelines

15h30-16h00 Coffee break

16h00-17h00 Possible future developments

17h00 Close of the meeting

APPENDIX II

LIST OF PARTICIPANTS/ LISTE DES PARTICIPANTS

MEMBER STATES / ETATS MEMBRES

AUSTRIA / AUTRICHE

Ms Brigitta BLAHA, Federal Ministry for European and International Affairs

Mr Robert STEIN, Federal Ministry of the Interior, Head of the Department of Electoral Affairs

Mr Gregor WENDA, Federal Ministry of the Interior, Deputy Head of the Department of Electoral Affairs

BELGIUM / BELGIQUE

Ms Fabienne BURY, Directeur, Administration des Pouvoirs locaux / Direction des Affaires Juridiques, Ministère de la Région de Bruxelles Capitale

Mr Patrick TROUVEROY, Informaticien expert, Administration des Pouvoirs locaux / Direction des Affaires Juridiques, Ministère de la Région de Bruxelles Capitale

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Mr Petr RIHA, Director of the Department of the Head Architect of eGovernment, Ministry of the Interior

FRANCE

Mme Tiphaine PINAULT, Bureau des élections et études politiques de la Direction de la modernisation et de l'action territoriale du Ministère de l'Intérieur

GERMANY / ALLEMAGNE

Dr. Sebastian SEEDORF, Division V-I-5: Electoral Law and Law of Political Parties, Federal Ministry of the Interior

LITHUANIA / LITUANIE

Mr Kęstutis ANDRIJAUSKAS, Acting Director, Information Society Development Committee under the Ministry of Transport and Communications (ISDC)

NETHERLANDS / PAYS-BAS

Mr Rintje OENEMA, Ministry of the Interior and Kingdom Relations

NORWAY/ NORVÈGE

Mr Henrik NORE, Project Manager, Ministry of Local Government and Regional Development

Mr Christian BULL, Chief Security Officer

Ms Ida Sofie STENERVD, Evote Product Owner

REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA

Mr Oleg ROTARU, Director of Commercial Department of State-owned Enterprise, CSIR Registru, Ministry of Information Technology and Communications

ROMANIA / ROUMANIE

Mr Gabriel SAUCA, Director of the IT Department, Permanent Electoral Authority of Romania

SPAIN / ESPAGNE

Ms Cristina LOPEZ, Head of Electoral Co-operation Unit, Deputy Directorate General of Internal Policy and Electoral Processes, Directorate General of Internal Policy

SWEDEN / SUEDE

Ms Kristina LEMON, Senior Advisor and Deputy Director, Election Authority, Valmyndigheten / Election Authority

Mr Johan SÄRNQUIST, IT Controller, Election Authority, Valmyndigheten / Election Authority

SWITZERLAND / SUISSE

Mme Anina WEBER, Cheffe du projet Vote électronique, Bundeskanzlei, Sektion Politische Rechte

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M. Michel WARYNSKI, Directeur, République et canton de Genève, Chancellerie d'Etat

OBSERVERS/ OBSERVATEURS

OSCE/ODIHR

Mr Robert KRIMMER, Senior Adviser on New Voting Technologies

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Mr Manuel KRIPP, Managing Director

INTERNATIONAL FOUNDATION FOR ELECTORAL SYSTEMS (IFES)

Mr Ben GOLDSMITH

COUNCIL OF EUROPE SECRETARIAT

Ms Myrtia MURGIA, Programme Manager, Division of Confidence Building Measures and Electoral Assistance

Mr Michael REMMERT, Deputy to the Director, Directorate of Policy Planning

Mr Pierre GARRONE, Head of Elections and Referendums Division, European Commission for Democracy through Law (Venice Commission)