

# Alternative voting methods and arrangements

BENEFITS, RISKS AND PRACTICAL CONSIDERATIONS IN LIGHT OF  
INTERNATIONAL STANDARDS AND GOOD PRACTICE, INCLUDING IN  
THE CONTEXT OF THE COVID-19 PANDEMIC



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## I. Introduction

Election day is not the only element of an electoral process but is one of the critical stages for the integrity of elections. It is the outcome and the reflection of a pre-electoral campaign, the moment when voters express their final choices about policy issues and political forces that they would like to see representing them in their country's governance. Election day procedures are also a reflection of how robust the overall electoral framework is. Overarching elements and long-term processes such as detailed and precise legal frameworks, sub-legal regulations, training and preparedness of election officials and voter education, to name just a few, have an impact on the conduct of election day procedures.

In 2020, the COVID-19 global health pandemic raised a number of challenges for the conduct of election day procedures and elections in general, both legal and practical. In the face of it, a number of OSCE participating States opted to postpone elections during declared states of emergency or out of considerations for the health and safety of all electoral participants. At the same time, some participating States have found it impossible to postpone elections, as legal (and often constitutional) obligations mandate holding periodic elections and do not foresee postponements. For all participating States, questions have emerged about adjustments to voting methods and the arrangements that could reasonably be put into place to enable the conduct of elections, to both safeguard all involved and ensure compliance with applicable international obligations, standards and good practice for democratic elections.

With most OSCE participating States using in-person voting with paper ballots in polling stations as the predominant voting arrangement, precautionary measures to protect the health and safety of all those working at and visiting polling facilities are the primary common imperative. Countries that have proceeded with the organization of in-polling-station elections during the COVID-19 pandemic have employed special measures, such as adjustments to the layout of polling premises, more stringent queue control, personal protective equipment, regular use of disinfectants and own or single-use writing tools. Beyond these measures, more profound adjustments to voting arrangements and procedures, including a shift away from the traditional paper-based voting in polling stations on election day, are widely discussed as possible alternatives.

Introduction of alternative voting practices and methods, including in response to the ongoing pandemic, require careful consideration. They need to be assessed not only in terms of their ability to alleviate public health threats, but also for feasibility, effectiveness and compatibility with the accepted standards for democratic elections. The ongoing public debate on this issue emphasizes the need to find the right balance between the commitment to hold elections to ensure compliance with the principle of periodicity and the ability to guarantee adherence to other key commitments, including secrecy and universality, as well as equality of suffrage and of electoral competition. It is also crucial that any adjustments to voting arrangements not be introduced hastily. Rather, such changes require careful consideration of their possible impacts and should be introduced gradually, based on thorough analysis and inclusive consultations with stakeholders.

This paper considers possible benefits and risk factors of conducting elections using methods and arrangements alternative to the predominant practice of voting in polling stations over the course of a single election day. Different voting methods and arrangements are analysed in light

of the existing OSCE commitments, other international obligations, standards and good practice in the field of democratic elections. While the choice of voting methods rests with the OSCE participating States, this paper intends to provide information to benefit public discussion about alternative voting methods and arrangements, including in the context of the COVID-19 pandemic.

## II. Scope

This paper provides a review of various voting methods and arrangements that depart from the traditional paper-based voting in polling stations on election day and analyses them from the perspective of applicable international standards and good practice. It aims to provide guidance for election management bodies (EMBs) and legislators as they consider a shift towards, or an expansion in use of, such alternative methods and arrangements. To facilitate a critical and comprehensive evaluation of the available options, the paper identifies both the benefits and possible pitfalls associated with the different solutions and offers guiding questions and considerations to help design responses that take account of potential risks.

The focus is maintained on voting that involves paper ballots, thus the review of the use of new voting technologies (NVT), including electronic voting machines or Internet voting, is limited to relevant key considerations, outlined in [ODIHR's Handbook for the Observation of New Voting Technologies](#). In the context of COVID-19 pandemic, public attention was initially drawn to the opportunities given by NVT, however, many OSCE participating States realized that proper implementation requires substantial time and NVT might not provide an immediate solution. The paper also does not study the arrangements for out-of-country voting (OCV) as these typically involve some form of in-person voting and/or postal voting - the latter is examined as part of this analysis. Finally, this paper does not review the broader impact of the COVID-19 on electoral processes, including the legal implications of postponing elections or the effect on the conditions for campaigning.<sup>1</sup> Similarly, considerations related to any concrete health and safety measures that might be put into place to protect voters, observers and election staff remain outside this paper's purview.

## III. Overview of international standards and good practice pertaining to voting and alternative voting methods

### A. Periodicity of elections

Regular, periodic elections is one of the key characteristics of a democracy, enshrined in a number of OSCE commitments and other international obligations and standards, including:

- 1990 OSCE Copenhagen Document, paragraphs 6, 7.1 and 7.2;
- 1948 Universal Declaration of Human Rights (UDHR), Article 21.3;
- 1996 International Covenant on Civil and Political Rights (ICCPR), Article 25;

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<sup>1</sup> See section II.1.D of the ODIHR report on [OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic](#), describing impacts of the COVID-19 on the elections and election observation.

- 1996 United Nations (UN) Human Rights Committee (HRC) General Comment No. 25, paragraphs 9, 19 and 22;
- 1953 European Convention on Human Rights, Additional Protocol, Article 3; and
- 2002 Venice Commission (VC) of the Council of Europe (CoE) Code of Good Practice in Electoral Matters (hereafter VC Code of Good Practice), sections I.3, I.5, and I.6.

These standards and good practices ascertain the right of citizens to elect their representatives and leaders at established reasonable intervals. Decisions to postpone or to cancel elections should be carefully contemplated, including in extraordinary circumstances such as a pandemic, and follow inclusive consultations with all main institutional and political players to ensure broad buy-in and public trust. Decisions should be weighed against the ability to organize the electoral process with respect of other guaranteed rights and freedoms and with the safety and health of all participants ensured. Alternative voting methods and arrangements can offer solutions in this respect and can in some circumstances facilitate proceeding with scheduled elections.

## B. Universal and equal suffrage

The right of all eligible citizens to vote and to stand as candidates is another fundamental requirement under international law. Universal and equal suffrage granted on a non-discriminatory basis is safeguarded, among others, by:

- 1990 OSCE Copenhagen Document, paragraphs 5.9, 7.3, 7.6, 24, 30 and 31;
- 1948 UDHR, Articles 2, 7 and 21;
- 1966 ICCPR, Articles 2, 3, 4, 25 and 26;
- 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Articles 2, 3, 4 and 7;
- 1996 UN HRC General Comment No. 25, paragraphs 1, 3, 4, 10, 11, 14, 15, 21 and 23;
- 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), Articles 1, 3, 5, 6, 12 and 29; and
- 2002 VC Code of Good Practice, sections I.1 and I.2.

Given the focus on this paper on alternative voting methods, greater attention is paid to the possible effect of alternative arrangements on active suffrage – the right and possibility to vote. Limitations of the right to vote are permissible under international standards only if they are reasonable, defined in law, and are strictly proportional to their objectives and aims. For instance, limitations of suffrage based on length of residence and 'blanket' restrictions based on incapacity and criminal conviction are at odds with the above standards. Extraordinary circumstances, such as the conduct of elections during a public health crisis, should not be seen as providing grounds for the imposition of undue and disproportionate restrictions on the right to vote.

Safeguarding the right to vote should also mean that the ability of eligible voters to register to vote and to actually exercise it are equally protected. The choice of voting methods and any special arrangements put into place, including in connection with public health issues, should take into due account and seek to protect the right and the ability to vote of categories of voters that might be particularly affected or deterred from voting. This could include people with disabilities and elderly voters, those with underlying health conditions, internally displaced persons and migrants, as well as voters in special care and correctional institutions. Appropriate

measures that both meet the objectives of protection of public health and facilitate voting by people infected with COVID-19 and those in self-isolation need to be put into place in order to ensure that these voters are not disenfranchised.

#### B.1 Participation by vulnerable, marginalized and under-represented groups of voters

The exercise of the equal right to vote may be connected with additional and unique challenges for some segments of an electorate. For this reason, electoral participation by the marginalized, vulnerable and often under-represented groups of voters, including women, voters with disabilities, national minorities, internally displaced persons, migrants and youth, are subject to additional targeted protection by a range of international standards and good practice documents. In addition to the overarching principles of equality and non-discrimination, safeguards related to the right to vote can be found in:

- 1990 OSCE Copenhagen Document, paragraphs 5.9, 7.3 and 7.5, 22-22.4, 30-32, 35;
- 1966 ICCPR, Articles 2 and 25-27;
- 1965 International Convention on the Elimination of All Forms of Racial Discrimination, Articles 1.4, 2.2, and 5;
- 1979 CEDAW, Articles 2, 3, 4 and 7;
- 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 41;
- 2006 UN CRPD, Articles 1, 3, 5, 6, 12 and 29;
- 1953 European Convention of Human Rights (ECHR), Article 14 and Additional Protocol No.12;
- 1994 Framework Convention for the Protection of National Minorities, Article 15;
- 1997 CEDAW General Recommendation No. 23;
- 1996 UN HRC General Comment No. 25, paragraphs 1, 3, 4, 10, 11, 12, and 14;
- 1998 UN Guiding Principles on Internal Displacement, Principle 22.1.d; and
- 2002 VC Code of Good Practice, sections I.1 and I.2.

By the virtue of making voting more accessible and facilitating wider participation, alternative voting methods and practices may help participating States meet some of these obligations. At the same time, decision-making on such alternative voting mechanisms should be accompanied with considerations of the effect on participation by these groups of voters and take account of the risks that some of these methods carry in relation to non-discrimination.

For instance, the challenges to secrecy and free suffrage posed by various remote forms of voting may become even more prominent when used by vulnerable groups due to the possibility of influence and pressure being exerted on them. Switching to postal voting for all could affect minority groups that do not have a permanent address or provoke family voting patterns in some societies. Internet voting can be an obstacle for accessibility for elderly people and in territories without reliable Internet coverage. Similarly, adjustments to polling station set-up and voting arrangements, including measures and safeguards introduced in connection with the pandemic, need to continue to cater, among other objectives, to participation and accessibility of voters with disabilities.

### C. Secrecy of the vote

The right to cast vote by secret ballot is another cornerstone of a democratic electoral process, enshrined in:

- 1990 OSCE Copenhagen Document, paragraphs 5.1 and 7.4;
- 1948 UDHR, Article 21;
- 1966 ICCPR, Article 25;
- 1996 UN HRC General Comment No. 25, paragraph 20;
- 1953 ECHR, Additional Protocol, Article 3; and
- 2002 VC Code of Good Practice, sections I.3.2 and I.4.

Effective protection of secrecy of the vote is one of the key challenges posed by some alternative voting methods, particularly when voting takes place outside the controlled environment of polling stations, such as postal or Internet voting, or when voters' choices are revealed to their appointed representatives, as in the case of proxy voting. Secrecy should therefore be at the forefront of decision-making when introducing or expanding the use of alternative voting methods. It requires safeguards in law and regulations, as well as due care and proactive steps by polling staff to protect it and to prevent any breaches. The importance of the secrecy of the vote, as well as measures taken to protect it should be addressed in civic and voter education programmes, as well as through prompt investigation by law enforcement bodies of its potential violation.

Secrecy considerations are also central in the context of polling station layout and set-up, equipment used, as well as in voter processing and flow management. They need to remain as one of the priorities when considering adjustments to polling station arrangements, including any special measures to mitigate public health risks.

### D. Free suffrage

Secrecy of the vote supports another related principle, the principle of free suffrage, whereas every voter should have the possibility to cast his/her vote fully independently and without any undue influence. International standards safeguarding the right of voters to vote freely, without any inducement, compulsion, intimidation, fear of retribution or manipulative interference, include:

- 1990 OSCE Copenhagen Document, paragraphs 5.1, 6, 7.1, 7.2, 7.4, 7.7 and 30;
- 1948 UDHR, Article 21;
- 1966 ICCPR, Article 25;
- 1996 UN HRC General Comment No. 25, paragraphs 2, 7, 9, 15, 19, 21, 23 and 25;
- 2006 UN CRPD, Article 29;
- 1953 European Convention on Human Rights, Additional Protocol, Article 3;
- 2002 Convention on Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States (CIS Convention), Article 8; and
- 2002 VC Code of Good Practice, sections I.3 and II.1.

Ensuring freedom of suffrage constitutes a particular challenge when voting takes place outside polling stations. There is a danger that voters casting their ballots by mail, electronically, via a proxy or using a mobile ballot box may be unduly influenced by others, such as members of their household, political parties or people involved in administering the vote. Effective safeguards of freedom of suffrage for some alternative voting methods are difficult to design and implement. One appropriate mechanism in such cases is a proper and prompt investigation of complaints alleging pressure on voters and bringing perpetrators to justice.

#### E. Transparency and honesty in counting and establishment of election results

As another key guarantee of integrity of election day procedures, international standards and good practice documents require that votes cast should be counted honestly, results made public, and that there is no possibility for undetected fraud or error to alter results. Consistency in implementation of procedures, transparency and timeliness during this crucial phase, including in resolving disputes over election results, contributes to public trust and acceptance of election results. Applicable standards include:

- 1990 OSCE Copenhagen Document, paragraphs 5.10 and 7.4;
- 1966 ICCPR, Article 25; and
- 1996 UN HRC General Comment No. 25, paragraph 20.

Alternative methods of voting and voting arrangements may entail adjustments to the usual institutional set-up, applicable procedures and timeframes for counting, tabulation and the announcement of official results. Depending on the solutions identified, the extent of their compliance with the requirement to count and report votes honestly, with the results made public, may vary.

When considering altering voting methods and arrangements, explicit attention needs to be paid to ensuring that counting and tabulation procedures are adjusted accordingly and this is made public; any new or ad hoc institutions being involved are covered by the legal framework, with their duties clearly outlined; and that transparency requirements, including for timely publication of detailed election results, are maintained. It is important to have complaints and appeals timelines adjusted to take into account the alternative voting methods in place. In addition, regardless of the voting methods and arrangements used, it is crucial to preserve the right and the ability of contestant representatives, media and observers to follow counting and tabulation processes.

### IV. Key considerations when reviewing voting methods

Several key considerations should guide decisions to implement any alternative voting methods or arrangements.

#### Timing

International good practice recommends that electoral reforms should be carried out and completed sufficiently in advance of elections. Good practice suggests that fundamental aspects



should not be changed within one year of elections.<sup>2</sup> While, recognizably, extraordinary situations and developments often necessitate prompt adjustments and accommodations, sufficient time is needed both for the legislative processes (including sub-legal and procedural acts) to be completed and for the subsequent implementation at all levels. EMBs and other stakeholders require sufficient time to organize and adjust at the practical level to novel measures being put into place, including for EMB training and public awareness raising. Adjustments to election procedures introduced shortly before elections, even if construed as a remedy to objectively severe or extraordinary situations, must not generate other problems that might detract from, rather than contribute to, the integrity of an election.

### Gradual introduction

Changes in voting practices need to be subject to and preceded by significant research and testing to ensure their proper implementation. Voters, political parties and the election administration require time to become acquainted with new rules and procedures.<sup>3</sup> It is recommended that the introduction of new approaches and methods is preceded with feasibility studies and evaluation of risks. Failure to properly address these issues can compromise the roll out and the use of alternative voting methods, and even the entire election. Sudden changes can also be construed as having an alternative interest to the advantage of certain political parties or candidates.<sup>4</sup>

### Clear legal basis

International standards and good practice require that the fundamental rights and freedoms should be guaranteed by law, with legal frameworks being clearly written, consistent and accessible. Paragraph 5.8 of the OSCE Copenhagen Document emphasizes that legislation and any changes to it need to be adopted upon conclusion of a public procedure, with publishing regulations being the condition for their applicability. Adjustments to voting methods and arrangements necessitate a comprehensive review of election legislation and may also require adjustments to other legislative acts and regulations. A clear legal framework should comprise emergency situations and serve as a basis for the development of all other necessary sub-legal acts, instructions and practical solutions. Plunging into electoral preparations without a fully finalized and adopted legal framework creates uncertainty for stakeholders, can pose major challenges for the election administration and may undermine public trust in the process.

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<sup>2</sup> Section II.2.b of the VC [Code of Good Practice](#) stipulates that, “the fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election.” Paragraph 110 of the Venice Commission’s Reflections on the Respect for Democracy, Human Rights and the Rule of Law during States of Emergency notes that, “Making a change of the election code as regards voting modalities less than one year before elections may possibly be in accordance with the Code of Good Practice in Electoral Matters if it is necessary for, or contributes to, fair elections.”

<sup>3</sup> According to the ODIHR [Guidelines for Reviewing Legal Framework for Elections](#), international good practice in relation to electoral legislation also provides that, “electoral legislation should be enacted sufficiently in advance of elections to enable voters and all participants in the process – including election-administration bodies, candidates, parties and the media – to become informed of the rules. Electoral legislation enacted at the ‘last minute’ has the potential to undermine trust in the process and diminish the opportunity for political participants and voters to become familiar with the rules of the electoral process in a timely manner.”

<sup>4</sup> According to the paragraph 65 of the Explanatory Report to the VC [Code of Good Practice](#), “It is not so much changing voting systems which is a bad thing – they can always be changed for the better – as changing them frequently or just before (within one year of) elections. Even when no manipulation is intended, changes will seem to be dictated by immediate political interests.”

## Training election staff

There are unique needs and challenges in the preparation and training of election staff on alternative voting methods, particularly when such methods are first introduced. Failure to adequately prepare staff can lead voters to improperly cast ballots or votes to be counted and tabulated incorrectly. Such practices, if widespread, may undermine public trust in the election administration and results.

Depending on the practice, the training may extend to all or only some polling station workers. In some cases, specialized staff, such as in the fields of information technologies or logistics, may be required. Training and materials developed for election workers may also be important for other stakeholders, including citizen observers or political party representatives in EMBs as well as officials involved in handling election-related disputes and investigations.<sup>5</sup>

## Public information

The obligation to ensure that voters can exercise their right to vote includes the need to provide voter education and public information.<sup>6</sup> With introduction of any new voting practice voters will require critical information, such as whether they can participate, how they can obtain and cast ballots. In some cases, such as the use of postal voting, voters also need specific instructions to make sure the ballots are filled out and returned correctly. Voters, observers, and political parties should also be informed when certain voting activities will take place, such as voting at home on election day via a mobile ballot box or voting conducted in long-term care facilities. Where alternative voting processes necessitate special procedures for counting and tabulating results, information about these procedures should be made publicly available. To strengthen overall confidence in the process, electoral stakeholders should also be aware of complaints and appeals mechanisms related to alternative voting modalities.

## Conditions for observation

In line with Paragraph 8 of the OSCE Copenhagen Document, observers – international and citizen – should be granted the right to observe all aspects and stages of an electoral process.<sup>7</sup> Whichever voting methods and arrangements are in place, access of observers should be provided for in law and in practice. Given the challenges posed by some alternative voting

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<sup>5</sup> Paragraph 84 of the Explanatory Report to the VC [Code of Good Practice](#) notes that, “Members of electoral commissions have to receive standardized training at all levels of the election administration. Such training should also be made available to the members of commissions appointed by political parties.”

<sup>6</sup> According to UN HRC [General Comment No. 25](#), paragraph 11, “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. [...] Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.”

<sup>7</sup> Paragraph 8 of the [OSCE Copenhagen Document](#) stipulates that, “participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level.” Similarly, section II.3.2 of the VC [Code of Good Practice](#) recommends the participation of international and citizen election observers at all stages of the electoral process.

methods in light of international standards, the need for transparency and additional oversight, including by representatives of election contestants, is even greater.

Assessment and reporting on observed processes are crucial to maintaining public confidence in elections and to identifying aspects requiring further improvement. Some alternative voting forms, including postal and Internet voting, render direct observation of voting and of technology-based vote processing challenging. Nevertheless, conditions need to be in place for observers to be able to assess all relevant aspects related to the use of all voting methods and arrangements applied.

### Impact on other parts of the electoral process

Changes to voting methods and arrangements may not only involve other institutions, such as public or private postal service providers or those providing social or medical care, but also have an impact on and necessitate adjustments to procedures on other aspects of an electoral process. Voter registration and voter lists, candidate registration, polling station staffing, and even the campaign period may require adjustments with regard to preparations and timelines.

In countries providing for voting from abroad, changes to the methods for in-country voting may necessitate adjustments to procedures for out-of-country voting (OCV), for example in the marking and return of ballots or the transfer and tabulation of votes cast. The ability to adjust to new methods and arrangements will depend very much on the conditions, including financial, in the host countries where the OCV is taking place. There are no firm international standards on whether and how OCV should be organized and the decision on the modalities remains in the purview of states.<sup>8</sup> It is, however, recommended to consider how any new in-country arrangements might affect the administration of the vote abroad.

### Budgetary implications

The implementation of changes to voting methods and arrangements might require substantial additional financial investments. While the needs and the costs will vary depending on solutions identified, aspects such as procurement of new equipment, technologies and materials, establishment of additional polling locations, recruitment, training and remuneration for additional polling staff, as well as enhanced logistical complexity, are likely to generate considerable additional costs for EMBs. Any decision-making process on adopting alternative voting methods and arrangements will need to consider what resources are available to EMBs, whether additional funding will be required and what anti-corruption measures should be taken to avoid misuse of newly allocated public funds.

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<sup>8</sup> The 2002 Convention on Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States is presently the only document binding for its signatory states that establishes an explicit right of citizens abroad to OCV. However, there appears to be a discernible trend in international legislative practice and in good practice documents towards granting OCV. For instance, in its [Report on Out-of-Country Voting](#), the VC recommended that states adopt a positive approach to the right to vote of citizens living abroad, since this right fosters the development of national and European citizenship. Similarly, [Resolution 1591 \(2007\)](#) on distance voting by the Council of Europe Parliamentary Assembly stresses that the right to vote is an essential freedom in every democratic system and invites member states to introduce distance voting. In 2018, ODIHR conducted a review of obligations of OSCE participating States to facilitate embassy voting by citizens of another OSCE participating State residing on their territory.

## V. Review of alternative voting methods from the perspective of international standards and good practice

This section analyses alternative voting methods and arrangements from the perspective of compliance with key international standards and good practice in the field of democratic elections. Benefits of different approaches are analysed, together with potential associated challenges, of which EMBs and legislators need to be mindful when considering adjustments to voting mechanisms.

### A. Postal voting

#### 1 General Principles

Postal voting is a method of voting used in many OSCE participating States, typically to enfranchise groups that might not otherwise have access to polling stations, such as voters confined to hospital, voters abroad or those with disabilities. Postal voting is also sometimes provided to voters who are temporarily away from their place of voting on election day, or who simply choose to vote this way out of convenience. In some cases, elections are conducted entirely through postal ballots.<sup>9</sup> Postal voting can be an effective way of making voting more accessible; however, it requires, among others, effective safeguards against possible manipulations and an established, reliable postal service provider.<sup>10</sup>

The principle of *universal and equal suffrage* extends to all voting modalities. Postal voting is typically a more complex process than polling station voting. However, a valid vote cast in this manner should not be less likely to be taken into account and included in the results. Any system of voting by mail must account for differences in socio-economic, health and other statuses, which may impact the likelihood of voters receiving ballots by mail and the possibility to return them. Voters often have unequal means and access to public information, which could also affect universal participation in postal voting. This is why it is important that voting by mail, even if it is the predominant modality, be supplemented by opportunities for in-person voting.

### Postal voting

Postal voting is an alternative voting method where a voter can cast a ballot outside a polling station, typically prior to election day. While nuances in different types of postal voting exist among OSCE participating States, in general terms a ballot is delivered to the voter at his/her place of residence, usually corresponding to voter registration data, via a designated mail carrier, such as the national postal service. The completed ballot is also returned via the mail – alternatively, the voter may be permitted, or required, to return the ballot in person.

The practice is referred to correspondence voting, voting by mail, absentee voting, and advance voting, among others.

Postal voting can be restricted to certain categories of voters or be open to all voters.

<sup>9</sup> Such elections are far rarer, and typically have only taken place at local or regional levels, or for certain types of offices. However, considerations of all-mail or postal-only elections increased in 2020 in response to public health risks stemming from in-person voting.

<sup>10</sup> The VC [Code of Good Practice](#), section 3.2.iii, states that, “postal voting should be allowed only where the postal service is safe and reliable.”

The *secrecy of the vote* may also be challenged by remote voting systems like postal voting, as it takes place without the presence of election officials or observers. Postal voting also provides for less oversight of certain behaviours, like influencing the vote of others and family voting. States, nevertheless, have an obligation to take measures to ensure that the principle of secrecy is maintained.<sup>11</sup>

Ballot delivery, marking, and counting systems used in postal voting present considerable and unique challenges to the integrity of elections. There are several commonly used procedural safeguards for voting by mail, such as ballot secrecy envelopes, witness requirements and signature verification. However, these technical solutions may not be enough to instil confidence in postal voting if there is diminished public trust in electoral processes and administration.

### Voting by mail

Elections conducted predominantly by mail generally take place in jurisdictions with a high degree of trust in the electoral process, with reliable postal services and address conventions. In such elections, a key consideration is *whether the voter must request the postal ballot, or the ballot is automatically mailed to every voter*.

*Requiring a voter to request the mail ballot* respects the fact that it is the voter's choice whether to participate in elections via this option. Ballot application processes, however, place additional burdens on both voters and the election administration, for example to make application forms available, to complete and submit the forms, to verify the application and fulfill the request for a ballot, and so on. The requirements for voters must not be overly burdensome, as this may have the effect of discouraging them. There must also be ample opportunities for voters to cast a ballot other than by mail, such as in-person election day voting, early voting, and others.

Voting systems that *mail out ballots automatically to eligible voters* generally have a tradition of voters using mail ballots established over several elections, where almost all voting is expected to be done by mail. Ballots are typically sent by the election administration to the voter's registration address. However, as citizens frequently move, or have multiple addresses, this may not always result in the ballot reaching the voter. As such, these predominantly mail-voting systems also require means to request a ballot be sent to a temporary address, to apply for replacement ballots, and to opt to cast a ballot in-person.

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<sup>11</sup> Paragraph 20 of the UN HRC [General Comment No. 25](#) obliges states, "to take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process."

## 2 Practical considerations: Applying for postal voting

**Election management:** A postal voting process typically requires shared responsibility and close co-operation with a national mail carrier and may involve co-ordination with additional state agencies and vendors. However, ultimate responsibility for administering postal voting resides with the state's election authority, including procedures for the design of ballots and mail ballot packages, as well as for the delivery and return of ballots. Excessive derogation of this authority to other state agencies may undermine effective independence of the election administration, contrary to international standards and good practice in elections.<sup>12</sup>

The materials and technologies required for postal voting are also markedly different than for in-person voting. Whether organized regionally or centrally, the procurement of materials and equipment can require considerable time. Specialized vendors are often needed to supply certain materials in large quantities, such as envelopes, or to carry out tasks like mailing applications or ballots to voters. Consequently, advance planning and preparation for these logistical matters is required in jurisdictions that widely use postal voting.

**Postal voting period:** One of the most important practical considerations in postal voting is the voting period. While reviewing the eligibility of a voter and issuing a ballot, and the voter's marking and casting the ballot can take just minutes during traditional in-person voting on election day, similar processes in postal voting can take place over days and weeks. States should designate an extended period of time for these processes to take place prior to election day, carefully consider feasibility of established deadlines and avoid fixed "dates" for steps like sending out ballots, especially when the number of voters using postal voting is unknown or expected to be high. Both voters and the election administration also need sufficient time to identify and remedy problems and omissions in delivering and returning ballots. Deadlines for the receipt of postal votes may also need to be set prior to election day, to ensure that the election administration can successfully deliver the ballots from where they are received to where they will be counted (if necessary), organize a mail ballot counting process and meet legal deadlines for establishing results.

**Requesting ballots:** If a voter is required to actively request a postal ballot, the election authority must also decide how and by when this is to be done. If possible, a voter should have multiple means to request a postal ballot, such as by mail, in person or electronically - including by phone, email, online or even through a mobile application.<sup>13</sup> Ballot request deadlines that are too restrictive can effectively disenfranchise voters. Typically, a postal ballot request deadline should leave sufficient time to the election administration to verify the voter's eligibility and send the ballot, and allow ample time for the voter to return the filled-in ballot via post. If a voter is permitted to return a ballot in-person, this deadline can often be moved closer to election day.

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<sup>12</sup> According to paragraph 20 of the UN HRC [General Comment No. 25](#), "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."

<sup>13</sup> As technology and country experiences permit, consideration could be given to phasing-out such requests by post as mail-in applications are less immediate and reliable and can lead to voters being disenfranchised.

### Case study: Expanding eligibility for postal voting

Some participating States providing postal voting have limited its use to certain categories of voters, such as the elderly, those with disabilities or voters residing abroad. As such, the number of voters using this option has been small. One participating State lifted such limitations on eligibility for postal voting in 2008, opening the process to all voters for convenience. Voters can have their voting documents sent in advance, or collect them in person at their municipality, and ballots can be cast immediately. Not surprisingly, the use of postal voting has jumped from under 10 per cent to more than 30 per cent in national elections in less than a decade after these new rules were put in place.

**Replacement ballots:** A postal voting system should include a procedure whereby a voter can request a replacement ballot - voters frequently change addresses or may be temporarily staying in a different location from their voting address. It may also be that a ballot simply never arrived in the mail, or that it was spoiled or lost by the voter. Procedures and deadlines for handling these cases should be defined in the electoral law or sublegal acts. EMB records of postal ballots and the cross referencing of mailed and returned ballots against a voter list can mitigate the risk of fraud from issuing such replacement ballots.

**Additional ballots:** While postal voting typically takes place over extended periods of time, postal

voting that takes place too far in advance can create additional challenges as voters' opinions can evolve, candidates can withdraw or become ineligible, and so on. One possible remedy for this is to allow voters to cast an *additional* or *second* postal ballot, which would cancel out the first ballot cast. A voter may be also allowed to vote in person on election day and thereby "cancel out" the postal vote. This practice can also allay fears that someone else may have cast a postal ballot on behalf of the voter.

#### KEY QUESTIONS:

- ✓ WHAT ADDITIONAL RESOURCES WILL BE REQUIRED TO ADMINISTER POSTAL VOTING?
- ✓ WILL OUTSIDE VENDORS OR OTHER STATE AGENCIES BE NEEDED TO SUPPORT THE ELECTION ADMINISTRATION?
- ✓ WHAT VOTING PERIOD WILL MOST ENFRANCHISE VOTERS, YET BE MANAGEABLE FOR THE ELECTION ADMINISTRATION?
- ✓ THROUGH WHAT MEANS CAN A VOTER REQUEST A POSTAL BALLOT?
- ✓ WHAT IS THE PROCESS FOR A VOTER TO REQUEST A REPLACEMENT POSTAL BALLOT?

**Second rounds of elections:** Not every electoral system assumes a second round of voting. In many systems where a run-off is provided for, the period between the two voting days can be very short, very often not exceeding two weeks. This is extremely important to adjust all logistical preparations for postal voting in such a case. This encompasses decisions on what materials voters should initially receive, including a run-off blank ballot and second set of envelopes, as well as realistic deadlines for returning

postal ballots. Clear information should be provided that different deadlines apply between the rounds.

### 3 Practical considerations: Voting and ballot return

**Voting materials:** A voter casting a ballot remotely will not have the benefit of polling station staff who can provide guidance on marking the ballot or other instructions. Postal voting materials should therefore contain essential instructions on how to mark the ballot, how to secure the ballot in return envelopes, and how to return the ballot. Materials should be simple yet comprehensive and adhere to universal design concepts.

#### KEY QUESTIONS:

- ✓ HOW WILL THE VOTING MATERIALS FOR POSTAL VOTING ENSURE THE SECRECY OF THE VOTE?
- ✓ WHAT ARE THE IDENTITY VERIFICATION REQUIREMENTS TO CAST A BALLOT BY MAIL?
- ✓ BY WHEN WILL VOTERS BE REQUIRED TO RETURN COMPLETED BALLOTS, AND HOW WILL THE TIME OF RECEIPT BE CONFIRMED?
- ✓ WHAT OPTIONS WILL THE VOTER HAVE TO RETURN THE COMPLETED BALLOT?
- ✓ WILL A VOTER BE ABLE TO BOTH REQUEST AND CAST A POSTAL BALLOT IN-PERSON?
- ✓ HOW CAN A VOTER CONFIRM THAT A COMPLETED BALLOT WAS RECEIVED AND ACCEPTED?

A secrecy envelope is a common feature in postal voting which is used to protect the secrecy of the vote. After marking a ballot, the ballot is placed inside the secrecy envelope that is then placed inside another envelope containing information used to establish the eligibility of the voter. A third envelope might also be used to provide additional anonymity when posting or delivering these ballot envelope packages.

**Identity requirements:** A key issue in postal voting is how to establish the identity of the voter when casting the ballot. Identity requirements vary across participating States with postal voting. Most postal voting systems rely on some combination of practices to establish identity, including voter affidavits (self-declarations), witness signatures, and enclosed copies of voter identification documents. The voter affidavit is generally a signed statement attesting to the fact that the voter is who they say they are, and to their desire to cast a mail ballot. In some cases, these statements must also be signed by one or more witnesses, or notarized.

**Cost of return:** While practices differ, it is preferable that participating States cover the costs associated with casting a ballot through the postal service. There should be no financial burden on voters to participate in elections, however small. If technically possible, this should also apply to citizens abroad voting by mail.

**Ballot return:** Some postal voting systems allow voters to return ballots directly to the election authority (in person), or via special return sites, sometimes called ballot “drop boxes”. Many good practices that apply to traditional polling stations also apply to these special return locations, such as a need for communication and information on where these locations are and hours of operation, and ensuring that the sites are accessible, including for voters with disabilities.



Any ballot “drop boxes” should be standardized to create equal conditions for returning ballots. Where possible, these return locations and boxes should bear instructions so that voters may verify the correctness of their return ballot envelopes. Consideration should be given to having election staff present at ballot return locations throughout the voting period to help ensure that voters cast mail ballots correctly and generally oversee the process. As with regular polling stations, rules and procedures are required to determine, among other aspects, how special return locations will “open” and “close”, how (and how often) materials are to be retrieved and packaged, the rights of observers, and restrictions on placing campaign materials.

In some cases, voters may be allowed to return their completed ballots by electronic means, such as email. While this affords greater convenience and may help enfranchise more voters, some electronic transmission methods require the voter to waive the secrecy of the vote. Such a waiver contradicts OSCE commitments and international obligations.

**Return deadlines:** Postal voting systems require clear deadlines for the receipt of votes, and missing these deadlines is one of the most common reasons for the rejection of postal ballots. Most postal voting systems use the election day or shortly before it as a deadline for the receipt of postal ballots, although in some cases it may be somewhat earlier. Additional challenge arises when the second round of an election is organized and the deadlines for returning the second-round ballots become extremely short. Some jurisdictions use the date of posting or the postmark as a measure of when the ballot was cast, and sometimes allow a certain “grace” period beyond election day for its receipt.<sup>14</sup> Regardless of when the deadline is, it is important that the law and the election administration do not “facilitate” invalidation of ballots by allowing voters to request postal ballots too close to the deadline for their return by post. Some elections have different deadlines depending on the return method, typically allowing voters to return ballots in-person closer to election day.

**Ballot collection:** Participating States may prohibit or impose limitations on the number of completed postal ballot packages a person can return on behalf of other voters. Limiting this right to immediate family members may be another option. The absence of any restriction on returning other voters’ ballots may lead to “ballot harvesting”, when representatives of parties and candidates collect completed ballots from voters (and are sometimes compensated to do so). Such practices may lead to schemes to illicitly influence voters’ choices, including through family voting, or to intentional spoiling of voters’ ballots.<sup>15</sup>

**In-person (postal) voting option:** Some postal voting systems allow a voter to both request a postal ballot and to cast it in person at the election authority. This practice allows voters who may not have a fixed address or those that are unexpectedly away from their place of registration on election day (after deadlines for requesting such ballots have lapsed) to participate in postal voting. Allowing a voter to obtain and cast a postal ballot in person also provides one remedy for wrongly delivered ballots, lost ballots, and other scenarios. It can also mitigate the risk of postal voting being used to influence another voter's choice, including through family voting.

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<sup>14</sup> While such measures can enfranchise more citizens by allowing a voter to make a decision closer to the election day and account for unexpected delays in mail delivery services, they must be reliable in preventing voting after the election day and should be carefully weighed against the need to establish a result quickly.

<sup>15</sup> Section 4.b. of the VC [Code of Good Practice](#) implies, “Voting must be individual. Family voting and any other form of control by one voter over the vote of another must be prohibited.”

### *Case Study: Restricting “Ballot Harvesting”*

Concerns of voter fraud and intimidation led lawmakers in a participating State in 2013 to pass legislation to curtail ballot collection or “harvesting”. While collecting ballots was still allowed, the new law prohibited compensating people based on the number of postal ballots they collect. As fears and allegations of fraud committed through the collection of voters’ ballots persisted, laws were further amended four years later to make the collection of postal ballots illegal and to impose strict criminal penalties for engaging in such practices. At the same time, restricting “ballot harvesting” highlighted the need to calibrate this mechanism, as some stakeholders, such as those in care homes or not mobile, voiced concerns regarding their effective ability to cast ballots.

**Observation:** Voting by mail also presents unique challenges to election observers. The electoral legislation should be clear on providing the right to observe the activities of all authorities involved in the administration of postal voting, such as local governments, mail service providers, and EMBs. Observers should have sufficient access to monitor critical processes, like the delivery and return of ballots, storage of materials, and opening and counting of ballots, including the determination of ballot validity.

#### **4 Practical considerations: Ballot receipt and counting**

**Receipt processing:** Whether through special return locations or the postal service, the retrieval of ballots must be carefully regulated to protect the integrity of election materials. Election bodies often carry out the verification of returned postal votes continuously, in order to identify which votes could be accepted for the counting process and which should be rejected, or potentially “triaged”. This is a common good practice, provided voter secrecy and the integrity of materials is maintained, and preferable to waiting until the close of voting to begin lengthy sorting and validation processes.

**Ballot tracking:** A major concern with casting postal ballots relates to the lack of certainty as to whether the completed ballots were actually received by election officials and taken into account. Increasingly, election authorities are creating systems whereby the voter can verify this information, for example online. To preserve the secrecy of the vote and to protect a voter’s identity, a voter can be issued a unique ballot return identification code that will verify the receipt of the ballot.

**Storage:** Postal ballots are cast days, weeks and even months prior to election day. How to store these ballots is a key consideration for the election administration. Ballots are typically stored centrally or regionally, as opposed to at the level of polling stations, as these locations are not easy to make secure over a prolonged period. The election administration should provide access to observers to any ballot storage areas.

**Counting:** The counting of postal ballots is a more complicated and time-consuming process than counting at regular polling stations. All ballot envelopes will need to be cross-referenced against each other (if the law provides for a possibility to cast an additional ballot) and a voter list or registry to verify voters’ eligibility and to guard against multiple voting or impersonation of others.

Another consideration is whether ballots should be returned to voters' respective polling stations to be counted or should be counted at the regional election administration level, at the level of an electoral constituency, or even at the national level. When counted in polling stations, it is a good practice to include the postal vote results in the respective precinct results to preserve secrecy. Where multiple voting methods exist, it is also important to indicate how many votes were cast through postal voting as a further transparency and accountability measure.

#### KEY QUESTIONS:

- ✓ WHERE WILL POSTAL VOTES BE COUNTED – IN POLLING STATIONS OR AT A MORE CENTRALIZED LEVEL?
- ✓ HOW WILL BALLOTS RECEIVED BE STORED PRIOR TO COUNTING TO MAXIMIZE TRANSPARENCY AND TO MAINTAIN VOTER SECRECY?
- ✓ WILL BALLOTS RECEIVED PRIOR TO ELECTION DAY BE PROCESSED IN ANY WAY FOR ADMISSIBILITY?
- ✓ WHAT WILL BE THE BURDEN OF PROOF FOR VERIFYING VOTERS SIGNATURES ON POSTAL BALLOTS?
- ✓ WILL VOTERS BE ABLE TO REMEDY A POSTAL VOTE THAT IS MISSING REQUIRED INFORMATION OR NOT ACCEPTED, AND IF SO, HOW?
- ✓ IF COMBINED WITH OTHER VOTING METHODS, HOW WILL POSTAL VOTES BE INCLUDED IN RESULTS?

How ballots are verified and counted often requires different procedures. If the number of postal votes is high, different counting technologies and equipment may be needed, and staffing requirements for counting will be different than for regular polling station voting.

As with all counting processes, transparency is a critical issue. The schedule for counting ballots should be made available to all stakeholders, and the facilities should be carefully arranged to allow for meaningful observation opportunities. Political parties, observers, and the electorate should be prepared for longer periods to establish results from elections with a high percentage of postal ballots, especially in elections using postal voting for the first time.

**Inclusive validity guidelines:** Mail voting systems often have a higher rate of rejection of ballots than in-person voting, especially when such practices are new. There are additional and more complicated steps to complete, such as enclosing ballots in correct envelopes, completing affidavits, supplying signatures and other personal data, and returning materials on time. Good practice dictates that clear procedures and

instructions for election officials on ballot verification should be designed with an aim to include votes and to avoid excessive rejection of ballots.<sup>16</sup>

This principle applies to interpreting ballot marks, but also other aspects required in postal voting. Some level of tolerance for “human error” is often acceptable, for example in relation to inadvertent omissions, misspellings or minor errors. Procedures should avoid vague terminology

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<sup>16</sup> Paragraph 49 of Explanatory Report to the VC [Code of Good Practice](#) recommends, “It is best to avoid treating too many ballot papers as invalid or spoiled. In case of doubt, an attempt should be made to ascertain the voter’s intention.”

such as “illegible” or “incomplete”, using instead specific guidance to minimize inconsistent application of rules and both wrongful rejection and inclusion of votes. If open seals are grounds for invalidation, a procedure for evaluating “open” seals should be established to create a consistent approach.

**Signature verification:** Signature verification is a critical safeguard used in postal voting. However, such verification is applied differently and with various degrees of rigor in participating States that use postal voting. While it is essential to establish the identity of the voter casting the ballot, often these procedures are conditioned by the resources and technologies available. Typically, signatures on the ballot envelope or voter affidavit are compared with those in the voter register and other signatures on public records available to EMBs. Signature verification is often done in teams, and in partisan EMB models by politically balanced teams. Such verification processes should also be open to candidates and observers.

Clear guidelines and instructions for the verification of signatures are crucially important. While fraudulent voting should be identified, mistakes in signature verification can disenfranchise voters. EMBs should provide training for all officials involved in this process, potentially using resources available from law enforcement or other state agencies with experience in signature verification techniques.

**Ballot remedy:** Postal voting rules may provide an opportunity for voters to remedy or “cure” ballots that would otherwise be rejected, due to missing signatures, eligibility questions or other reasons. For example, the election authority may be required to contact voters whose ballots have been received but cannot be accepted. Voters have a fixed period to remedy the issue so the ballot can be accepted.

## B. Proxy voting

### 1. General principles

The possibility for voters to cast their votes via a proxy is an additional measure designed to make voting more accessible. A limited number of OSCE participating States that allow proxy voting do so with a motivation of providing or enhancing the opportunities to vote for voters who might otherwise be unable or find it difficult to exercise this right in person. While proxy voting is commonly conducted in parallel with other forms of voting, in some cases it is considered the sole solution for enfranchising certain groups of voters.

In facilitating voting for such groups of voters that might be at greater risk of exclusion, such as the elderly, people with disabilities, voters abroad, citizens in pre-trial detention and penitentiary institutions and others, proxy voting can be argued to support the requirements of *universality* and *equality*. It also contributes to making the electoral process more *inclusive* and facilitates wider participation.

Notwithstanding these potential benefits, proxy voting is associated with several risks and concerns in light of international standards. Foremost, proxy voting compromises the *secrecy* of the vote since it entails the disclosure of the voter's intent to another person (the proxy). The majority of the OSCE participating States do not provide for proxy voting due to its incompatibility with this principle and due to legal requirements that the right to vote must be exercised by a voter personally.

Another challenge posed by proxy voting is the potential for its misuse. It is difficult to ensure that any decision to vote by proxy and to entrust a person with exercising the voter's choice is made by the voter genuinely and voluntarily. Proxy voting thus leaves space for coercion, intimidation, pressure or deception, affecting the ability of voters to exercise their right to vote in full *freedom*. These risks can be particularly acute when proxy voting is exercised by voters belonging to vulnerable and marginalized groups.

### Proxy voting

Proxy voting is an arrangement when a voter authorizes another person (a proxy) to vote on his/her behalf, most commonly when s/he is unable or finds it difficult to vote in person. This voter discloses his/her voting preference to the proxy and the proxy commits to cast the vote as instructed.

Depending on voting methods and arrangements in place, the authorized proxy might be casting votes entrusted to him/her during early (advance) voting, per post, at diplomatic representations abroad or in regular polling stations on election day.

Approach to eligibility varies, ranging from being generally available to all voters to being reserved only for specific, narrowly defined circumstances. In some cases, proof of the voter's inability to come to a polling station is required.

### *Case Study: Use of Proxy Voting by Vulnerable Groups*

Proxy voting is a longstanding practice and enjoys broad support among stakeholders in one participating State. It can be requested by voters who are unable to come to polling stations in person by signing an authorization for a trusted person on the back of their voter's card, without any prior application or justification required. A proxy may represent not more than two voters and, in addition to the voter's card, must present a copy of voter's identification document. The election authorities are undertaking efforts to analyse the trends in the use of proxy voting. Research and statistics suggest a historically higher rate of proxy voting among women, ethnic and religious minorities, as well as in immigrant communities. In the past, election authorities have sought as part of post-election assessment explanations from municipalities, where comparatively high rates of proxy voting occurred. Given the scale and the disproportionality in the use of proxy voting, as well as with a view to ensuring secrecy and equality of the vote, ODIHR has recommended reviewing the need to maintain proxy voting in this participating State given the existence of other alternative voting methods.

Irregularities stemming from the practice of proxy voting may have a serious negative impact on the *integrity* of elections and on the confidence of stakeholders. To mitigate such risks, the states that use proxy voting have introduced various legal and procedural safeguards to limit its use to specific circumstances, and some have tightened the procedures to reduce opportunities for misuse. Thorough investigation of cases of misuse of proxy voting can contribute to greater confidence in electoral processes.

For the above reasons, ODIHR has consistently recommended to States allowing proxy voting to review this practice, including in favour of other alternative voting methods and arrangements that do not pose the same challenges in light of international standards.

## **2. Practical considerations**

**Eligibility:** Decision on who will be eligible for proxy voting and how narrowly the qualifying requirements will be defined will determine how widely proxy voting might be used. While there are some rare examples of states granting proxy voting to all, good practice and ODIHR recommendations have clearly pointed to a need to minimize its use. One possible approach is to resort to other alternative methods or limit proxy voting to such groups of voters that have no other accommodations available to them and would otherwise be disenfranchised.

**Application process:** Consideration needs to be given to when and how a voter would notify the election authorities of a wish to vote by proxy, such as through a formal application filed with the relevant election authority several days before election day. Clear procedures should regulate how such applications could be made - in writing, by submitting specific application forms, by phone, email or through in-person requests. Generally, these steps should not be cumbersome, lest they undermine the very idea of enfranchising those that already find it difficult to vote. At the same time, such application requirements serve as an additional safeguard against abuse. In particular, voters' signatures and personal identifiers, including

commonly the date of birth, address of registration, and personal or ID numbers, serve to prevent fraud and to verify voter's eligibility to vote by proxy.

#### KEY QUESTIONS:

- ✓ CAN OTHER VOTING METHODS AND ARRANGEMENTS BE USED TO ENFRANCHISE VOTERS INSTEAD OF USING PROXY VOTING?
- ✓ DO ELIGIBILITY AND APPLICATION REQUIREMENTS ENSURE USE ON A LIMITED SCALE IN DEFINED CIRCUMSTANCES?
- ✓ ARE SAFEGUARDS AGAINST MISUSE IN PLACE?
- ✓ DO PROCEDURES ENSURE DUE OVERSIGHT?

**Document requirements:** Some countries grant the possibility to vote by proxy only upon presentation of evidence or of a statement indicating a valid reason behind the request. Typically, this reason is a disability, other health issues, or absence from the country or a designated voting area on election day. For these safeguards to be fully effective, a review of the submitted evidence and of the cited circumstances should take place and decisions of acceptance or rejection communicated by the election authorities to the applying voters. Just as the application process can deter voters if too cumbersome, these requirements should also be carefully weighed against the accessibility of documents and other considerations. For example, a voter who is ill may not have access to the required medical documents, or a voter with a disability may not wish to declare the disability for other reasons.

**Basis for the exercise of the proxy vote:** Regulations will need to specify how the proxy should confirm his/her designation at the point of casting the ballot. These will often consist of a signed statement or an authorization by the voter, indicating the name of a person, address and/or ID number of a nominated proxy. There are no mechanisms to verify whether a proxy voted as instructed - a valid potential concern given the fact that proxies may have and be inclined to vote along their own political preferences. However, proxies can be required to confirm in writing the acceptance of designation as a proxy and that they pledge to vote for the party or/and candidate(s) of the voter's choice. A copy of voter's ID, provided to and presented by the proxy to election officials, serves as an additional guarantee against fraud.

**Requirements for serving as a proxy:** Regulations should also define who can and cannot serve as a proxy. A common basic requirement is for proxies to be registered as eligible voters themselves. It is a common practice to limit how many voters one person can represent (typically one or two voters) to serve as a safeguard against any large-scale organized or imposed proxy voting schemes.

Consideration could also be given to whether a proxy may be directly related to the voter - a relatively widespread practice - or whether a restriction should be imposed in this respect in order to prevent any coercion based on gender and stereotyped family roles. Appropriate solutions also need to be considered to protect the free will of persons under guardianship, who most commonly resort to the assistance of their guardians for voting. The possibility for voters to change their mind, to retract proxy authorizations, and to vote in person preserves more

decision-making power with the voters, may minimize possible pressure and reduce space for manipulation.

**Keeping track of proxy voting:** Procedures will need to be developed for proxy designations to be registered, communicated to the relevant polling station commissions or other bodies, and for these bodies to keep track of proxy voters that have voted to ensure due oversight. Measures to ensure that a proxy does not represent more than the allowed number of voters also need to be put into place but may be difficult to enforce if a proxy can cast ballots for voters registered in different polling stations. For this specific reason, requiring a proxy to be registered in the same polling station as his or her principal could be one risk-mitigating measure.

The participating State allowing for proxy voting should also track and react to any disproportionate use of proxy voting in specific communities. This may indicate that vulnerable members of these communities are subject to pressure by other voters.



## C. Early voting

### 1. General principles

Early voting arrangements offer opportunities for voters to cast a ballot when they cannot vote on election day or if they simply find it more convenient to vote on an alternative day. Such arrangements may be implemented for a variety of reasons, including efforts to enfranchise more voters, increase overall voter turnout or reduce the volume of voting at polling stations on a single election day.

Determining who is eligible for these early voting opportunities is a key question when considering such a process. Early voting may be open to any eligible voter, or only for certain target groups who may be unable to vote on election day, such as poll workers and security personnel. In other cases, early voting may be open to those who have proof they will be away on election day. If voters may cast ballots outside of their home (registered) voting area, the process introduces considerably more complex early absentee voting procedures that involve added fundamental issues regarding secrecy and transparency.

Early voting opportunities can expand the *universality of the vote*. Making voting possible on several days provides greater access for certain cultural, religious, professional or other groups who may find it difficult to participate on election day, as well as voters with disabilities or those caring for dependents who may not be as flexible as others. Nevertheless, research is divided on whether early voting significantly increases voter turnout or just shifts when likely voters cast their ballots. Voters that are less likely to cast a ballot are often the same voters who are the least likely to be aware of alternative voting methods, such as early voting. As such, targeted voter education campaigns that also consider language needs and literacy, are often required to achieve stated goals.

When facilitating early voting opportunities, almost all the same safeguards and practices implemented for election day must be in place for early voting processes to ensure the *secrecy of the vote* and the overall integrity of the voting process. However, early voting poses some additional

### Early voting

Early, or advance, voting provides voters an opportunity to cast a ballot prior to election day. While postal voting may be considered early voting, this section will focus on in-person voting as postal voting is discussed at length above. Early voting provides a convenient option for voters that cannot or prefer not to vote on election day.

Within the OSCE area, early voting can begin as much as several weeks prior and end the day before election day.

Early voting can be made available to all voters or restricted to certain segments of the electorate, such as security forces and polling staff, who are working on election day. It may also be restricted to voters who provide evidence that they are unable to cast a ballot on election day.

Early voting is typically held in a limited number of polling stations per election unit (district) and may be conducted in district election offices, special polling locations or a selection of regular polling stations.

challenges for the election administration, including the safe storage of sensitive electoral materials, preventing attempts of multiple voting and processing voter list data.

Throughout any early voting exercise, *transparency* is critical and political party representatives and observers will require full access and earlier accreditation for the observation of this process to be possible. Early voting that takes place without access for observers or media would not be in line with OSCE commitments.

## 2. Practical considerations

**Eligibility:** Determining which citizens are eligible to take part in early voting is a fundamental question to consider. As noted, the process may be open to all voters, or limited to certain segments of the electorate who are not able to vote on election day. Legislators will need to

### KEY QUESTIONS:

- ✓ WILL EARLY VOTING BE OPEN TO ALL VOTERS OR JUST A FEW DEFINED GROUPS?
- ✓ HOW MANY DAYS OF EARLY VOTING WILL BE PROVIDED AND HOW FAR IN ADVANCE OF ELECTION DAY?
- ✓ DO TIMEFRAMES FOR EARLY VOTING RECONCILE WITH OTHER ELECTORAL DEADLINES, SUCH AS CANDIDATE REGISTRATION AND PRINTING OF BALLOTS?
- ✓ WILL VOTERS BE ELIGIBLE TO CAST BALLOTS OUTSIDE THEIR REGISTERED ELECTORAL AREA OR DISTRICT?
- ✓ HOW MANY EARLY VOTING STATIONS WILL BE OPENED, PER DISTRICT?

define in the legal framework the groups of voters that will be eligible and, if limited, how these voters' eligibility will be substantiated. If early voting stations are to accommodate voters from outside their home electoral area (district), these voters might need to meet additional identification or registration requirements. Such information should be part of voter information campaigns.

**Early absentee voting:** Some jurisdictions have early voting that accommodates voters from a different electoral area (district), or *early absentee voting*. Offering early absentee voting provides voters registered in one district, but living, working or studying in another district, easy access to voting. Early absentee voting reduces the need for extensive travel for some voters and the related potential health risks during a pandemic. The convenience of voting early in another voting area provides for greater universality and could also increase voter turnout overall.

Early absentee voting necessitates numerous other procedures and resources in order to facilitate the voting process and preserve electoral integrity. Because of the differences in how absentee voters are processed, polling stations often create separate areas with dedicated polling staff just for such voters. A full voter register, with a list of voters for the whole country is required to properly identify and process voters. Decisions must be made about whether such voters will cast their votes as write-in ballots or whether each early voting station will be stocked with ballots for each district in the country. While easy to overlook, it is critical to ensure that enough supplies are on hand for each type of ballot, including envelopes as required, as any shortage may lead to disenfranchising voters.

If other options for voting outside a place of residence or registration are not envisaged, absentee voting can be also offered on election day. However, unless real time online voter registers are in use in the country, mechanisms for ensuring that these voters have not already cast ballots at the place of their permanent registration need to be put in place. Also, depending on the electoral system and procedures in place, absentee ballots may need to be delivered to the places of voters' registration prior to the counting of ballots. As this might mean that ballots may not be counted for some time after election day, delays can cause concern about the integrity of the tabulation process and weaken public confidence.

Secrecy concerns must also be taken into consideration regarding any early absentee voting process. Typically, such concerns are addressed by providing voters with ballot secrecy envelopes (like during postal voting) that are placed within another envelope containing the voter's registration information. This allows for these ballots to be delivered to the correct polling district for counting and for the local polling station to verify that the voter did not attempt to cast multiple ballots.

**Early voting period:** The time made available for early voting should allow for *reasonable and equal accessibility* for eligible voters. Considerations regarding the days and times during which early voting should be held are complex. Timeframes could vary considerably depending on whether early voting is open to all citizens or just specific groups.

In some OSCE participating States, early voting begins several weeks prior to election day and ends one day before election day. An extended time period for early voting, including a variety of days and times (weekdays and weekends, as well as daytime and evening hours), affords voters flexibility to cast a ballot at their convenience. It may also accommodate voters who work and reside in another location and return to their home voting area infrequently. Expanding the time period for early voting may also help to space out the volume of voters coming to early voting locations, making it more manageable for election officials. Each state should determine the effective period for early voting based on local considerations.

#### *Case study: Administering early voting*

In one participating State, early voting has a long tradition and enjoys a high level of public confidence. It starts shortly after the elections are called, when candidate lists might not yet be finalized. To mitigate the risk of early voters potentially making their choices based on incomplete information about contestants, voters have the possibility to re-cast early votes or to vote again on election day, with only the last vote being counted. Early voting is administered by special district electoral offices and follows procedures different from those on election day. The places and times for early voting are widely publicised by the respective election offices and political parties. Closer to election day, larger facilities are often made available with longer opening times for even greater voter convenience. Early voters complete all the paperwork in the presence of election officials, who verify voters' identities and ensure the secrecy of the vote.

At the same time, the earlier the process begins, the greater the pressure on the overall electoral timeline, including the nomination of candidates and ballot printing. If early voting begins far in advance of election day, it may negatively impact the ability of early voters to make a fully *informed choice*. An early voter's opinion could change, with no recourse.

**Multi-day voting:** While multi-day voting is not traditionally considered early voting, it does provide voting on more than one day, like early voting. The most common form of multi-day voting is when more than one day of voting is scheduled in all polling stations, typically on consecutive days. Multi-day voting can also be seen when single-day elections are held in different parts of a country on different days. Multi-day voting is exceedingly rare, at the national level it is currently practiced in a few OSCE participating States, though in the past it has been considered in others.

On the face of it, the vast majority of benefits and concerns regarding multi-day voting are the same as those seen with early voting. By providing more than one day of voting, the system is likely to enfranchise more voters than single-day elections and does not require voters to travel to a different polling station than their regular station, which early voting typically does. In practice, most multi-day voting is limited to two days, whereas early voting tends to be spread over more days, over a longer period of time prior to a single election day.

One unique advantage to multi-day voting is the fact that a single voter list can be used throughout the process, which removes concerns about any errors that could occur while consolidating records from different voter lists throughout the early voting process. With regard to locations, multi-day elections require that each voting location be available for each of the election days, which may reduce the number of locations available and require an EMB to use less adequate facilities that may not be as accessible to all voters. Like early voting, multi-day voting requires the same attention to be paid to transparency, reconciliation and security of materials given they will need to be stored overnight between election days.

Continuity of staff is required between any possible shift changes during multi-day voting and counting. This ensures a line of responsibility for sensitive materials and actions taken through the process. It is best for one polling team to be charged with handling the same voter list and ballots throughout the voting period. However, the more days of voting, the greater the need for more staff to cover breaks and election officials not returning for any reasons.

If multiple election days are to be carried out, official protocols to account for the interruption between election days should be implemented to standardize procedures. As well, clear procedures should be developed to safeguard all sensitive materials between election days and ensure accountability and transparency in the process.

**Voter education and public information:** States are obliged to provide *voter education and information campaigns* to ensure voters can exercise their right to vote.<sup>17</sup> Typically, the majority of resources, including from political actors and the media, is focused on election day. When alternative voting methods are implemented, such as early voting, particular focus must be made to these procedures, as many voters are unaware of these added convenience measures or of how to access them.<sup>18</sup> Voters must be made aware for whom early voting is available, where and when it may be accessed, and what is required of them to participate. Furthermore, it is helpful to provide details about how the process works overall, to build trust and confidence

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<sup>17</sup> According to paragraph 11 of the UN HRC [General Comment No. 25](#), “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. [...] Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.”

<sup>18</sup> See [Early Voting: Comparing Canada, Finland, Germany, and Switzerland](#), Election Law Journal: Rules, Politics and Policy, Vol. 18, No. 2, June 2019.

that early voting ballots will be counted in the same manner as election day ballots and that the secrecy is maintained, including in the case of early absentee ballots.

**Locations:** In determining the location of polling stations for early voting, authorities should contemplate the whereabouts of voters. In practical terms, it may be advantageous to use

district election offices as early voting locations, if space in these offices allows. In all cases, proximity to voters should be considered. If early voting is open to all citizens, a single early voting station in a very large district is unlikely to suffice and greater accessibility should be sought.

Whether early voting is limited to particular groups or not, a number of accessibility concerns can be addressed at early voting stations. Given that fewer polling stations operate during early voting, the authorities can better ensure that early voting polling stations are fully accessible for voters with disabilities. This includes both the location itself and special voting equipment inside the stations that allow all voters to cast a ballot independently. While offering such services expands universality during early voting, authorities should still provide universal access to voters on election day.

Determining the number of locations for early voting is based on different considerations. Anticipating voter behaviour is difficult: citizens may participate in the new opportunities far more than expected, or not at all. A plan to reduce the volume of voting at polling stations on election day may not be realized and election day polling stations may see the same number of voters as usual, creating queues and crowds. Pilot early voting projects are often used to provide metrics on voter behaviour and staffing and other resource needs.

**Polling staff:** The selection and appointment of early voting polling workers should generally

follow the same principles as for regular polling station staff, with an eye to create *political balance or independence and impartiality*.

Early voting creates unique issues on which election staff must be trained. The closing, reconciliation and storage elements of early voting, in particular, must be covered in any training and instruction manuals. Positively, training early voting staff may also contribute to increasing competence for election day, as early voting staff may be involved on election day as

#### KEY QUESTIONS:

- ✓ HOW CAN EMBs EFFECTIVELY INFORM VOTERS ABOUT WHO IS ELIGIBLE FOR EARLY VOTING, WHEN AND WHERE IT WILL BE HELD AND WHAT ARE THE REQUIREMENTS?
- ✓ ARE THERE SUFFICIENT RESOURCES TO IMPLEMENT EARLY ABSENTEE VOTING, GUARANTEEING SECRECY AND DELIVERIES TO ENSURE ALL SUCH BALLOTS ARE COUNTED?
- ✓ HOW WILL BALLOTS AND OTHER SENSITIVE MATERIALS BE SECURED AND RECONCILED BETWEEN ELECTION DAYS?
- ✓ IF PROHIBITED, HOW WILL IT BE ENSURED THAT EARLY VOTERS CANNOT CAST ANOTHER BALLOT ON ELECTION DAY?
- ✓ HAS THE CORRECT BALANCE BETWEEN ENSURING SUFFICIENT ACCESS TO EARLY VOTING AND THE CAMPAIGN BEEN FOUND?
- ✓ IF COMBINED WITH OTHER VOTING METHODS, SUCH AS POSTAL VOTES, WHICH BALLOTS ARE COUNTED?

well. Such training may also be important for others, such as party and independent observers.<sup>19</sup>

**Voter lists:** Ensuring voter data from early voting is correctly reconciled with election day voter lists is paramount to securing that multiple voting is not possible and thus *equal suffrage* is maintained. If early voting is held far in advance of election day, it is possible that final voter lists will not have been created yet and the voter register or a similar database might be used to identify voters. Whether an EMB uses voter lists or the larger voter register during early voting, detailed procedures and training are required to ensure that the data collected about voters who cast ballots during early voting are correctly transcribed on election day voter lists and that no others have been incorrectly marked as such. Voters who cast an early voting ballot should be marked as having voted early rather than removed from election day voter lists for transparency.

**Reconciliation and secure storage:** Allowing for early voting complicates and extends the period of time that sensitive materials must be stored securely through to the counting process. Throughout the early voting period, strict control and detailed reconciliation of sensitive materials, such as the ballots cast, blank ballots and completed voter records, must be maintained to ensure all materials are accounted for. Ballots cast should always be stored in sealed ballot boxes with strict chain of custody procedures.

Reconciliation between the close of voting on one day and opening on the next is important as well. Records should include how many ballots were cast early at any particular polling station and for each particular district on each day. By documenting these processes and making records available to party and independent observers, greater transparency is created. This is a strong trust building endeavour, as these processes are typically not visible to the public.

When contemplating reconciliation of all stages of the election, attention must be paid to ensuring only the data required are being collected, to maintain simplicity. Forms should be laid out in a simple, logical manner. Many current systems of reconciliation are too complicated for election officials and are often seen as a portion of the process completed poorly by officials.

**Counting:** It is imperative for early voting ballots to be counted in a manner that ensures *transparency* and *secrecy of the vote*. In some cases, there may only be a small number of voters that take the opportunity to vote early and counting them as such could jeopardize secrecy. Mixing early voting ballots with other ballots from the polling station or district may be necessary to ensure secrecy.

Early votes may be counted at the district level or at polling stations, depending on practicalities, but not before the end of election day. In either case, for transparency reasons, it remains important that the published results include how many votes were cast early, by district and/or polling station.

The provision of early voting stations for specific groups should be limited to sets of individuals who would find it difficult to attend regular polling stations. Care should be taken to ensure the

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<sup>19</sup> Paragraph 84 of the Explanatory Report to the VC [Code of Good Practice](#) recommends that, “Members of electoral commissions have to receive standardized training at all levels of the election administration. Such training should also be made available to the members of commissions appointed by political parties.”

secrecy of the groups' vote as well. In each case, these ballots should be mixed with those of other groups prior to counting, especially if any of the groups could be specifically targeted based on results.<sup>20</sup> Contrary to good practice, some countries provide specific early voting stations for security forces.

**Observation:** Early voting processes are just as important as any other portion of the election and include unique elements that both independent and partisan observers should have access to, in line with Paragraph 8 of the OSCE Copenhagen Document. Observers should have access to the entire process, including the storage of materials, reconciliation documents and the transport of materials. Ensuring this access, including through early access to accreditation, promotes *transparency* and builds trust in the system.

#### *Case study: Early voting polling stations for security forces*

Based on an understanding that security forces are key to helping safeguard a peaceful and orderly election day and are not allowed into polling stations unless necessary, a participating State established early voting stations specifically for security forces in military bases and other locations. Citizen observers were not provided access to these polling locations, but allegations of coercion of these voters were rampant. Upon completion of early voting, ballots were stored until the end of the regular election day and were then counted by these polling stations. When the results were announced, the opposition had won the election, yet the overwhelming majority of the security forces voted for the incumbent government, potentially also correlating with earlier concerns related to coerced voting at these locations and violations of the secrecy of the vote. Within a few months after the change in government, the majority of security forces were replaced. This illustrates some of the reasoning behind the VC Code of Good Practice recommendation for security forces to be registered to vote at polling stations near their duty station and for their votes to be included in the results at these regular polling stations.

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<sup>20</sup> According to paragraph 20 of the UN HRC [General Comment No. 25](#), "States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process."

## D. Home and institution-based voting

### 1. General principles

As discussed above, it is not possible for some voters to come to a polling place on election day to cast a ballot. Home and institution-based voting is a broadly applied term for practices where such voters are permitted to cast their ballots outside the polling place, typically a place of permanent or temporary stay, such as their homes, hospitals, penal institutions or other “confined” locations.<sup>21</sup>

Home and institution-based voting can be carried out through various technical methods, but the common, defining characteristic is that a ballot is brought directly to the voter who immediately completes and casts the ballot on the spot. This is frequently done with a paper ballot cast in a “mobile ballot box” or through a postal ballot that is completed, sealed and returned to an election official.

The use of home and institution-based voting can be considered an important practice that offers certain citizens the opportunity and means to vote. It can also enfranchise voters from typically marginalized populations, including people with disabilities, the elderly or the incarcerated. Thus, home and institution-based voting can be instrumental to participating States’ attempts to render *equal* suffrage to adult citizens.

However, benefits derived from home and institution-based voting are dependent upon such practices maintaining *freedom* and *secrecy* of the vote. Secrecy of the vote means not only that the choice of each voter remains secret, but also that a person can exercise his or her choice freely, without the potential for coercion, intimidation, or vote-buying. Voting processes that do not meet this commitment cannot be considered democratic.<sup>22</sup>

Secrecy of the vote also means that it should not be possible to associate a vote with a specific voter. The peculiarities of home and institution-based voting require special procedures and safeguards to ensure this. When legal and procedural safeguards designed to uphold these rights are absent, home and institution-based voting can be more vulnerable to negative practices, such as voter intimidation and undue influence. This is especially true for voters who

## Home and institution-based voting

Home and institution-based voting refers to alternative voting practices where a voter casts a ballot at their current place of stay or employment rather than in a traditional polling station. Such practices are designed to accommodate voters who for reasons of confinement or professional obligations might have no opportunity to participate in voting in a polling station on election day.

In home and institution-based voting, a ballot is often cast through the use of special voter lists and mobile ballot boxes, postal ballots or other special methods.

A voter may be required to apply for home or institution-based voting, or they may be automatically enrolled based on their social status or professional obligations.

<sup>21</sup> “Home and institution-based voting” in this paper is sometimes referred to simply as “homebound voting” when speaking about voters who request to vote at home for a qualifying reason.

<sup>22</sup> Paragraph 7.4 of the [OSCE Copenhagen Document](#) requires participating States to, “ensure that votes are cast by secret ballot or by equivalent free voting procedure.”



may be susceptible to intimidation from superiors, for example police or military voters, or individuals voting in more vulnerable circumstances, such as prisoners or students.<sup>23</sup>

*Transparency* is a cornerstone of the OSCE election-related commitments, as it is necessary to verify that elections take place in accordance with the law and democratic principles. This is especially applicable to home and institution-based voting. Not only should all voters be aware that home and institution-based voting exists, they should be informed about how and when it takes place, and the legal and procedural safeguards designed to maintain the security and integrity of the voting process. Political parties, candidates and observers should have the opportunity to observe the work of election authorities at all levels, as recognized by paragraph 8 of the OSCE Copenhagen Document, including the administration of home and institution-based voting. Legislation and practice that do not allow for sufficient access by observers to voting in these conditions cannot be assessed as fully meeting OSCE commitments.

*Integrity and public confidence* are two further important elements of a democratic electoral process that have been affirmed in OSCE documents.<sup>24</sup> Home and institution-based voting involves several practices happening away from the public's view, which can further diminish confidence in states that lack a tradition of credible elections or where there is an underlying distrust in the election administration. Like all electoral processes, strong procedural safeguards and a high degree of transparency can help maintain and build public confidence in home and institution-based voting.

## 2. Practical considerations

**Eligibility:** The most fundamental question for participating States using home and institution-based voting systems is determining who will be eligible. The practice is typically offered to categories of voters who might have difficulty participating in elections at the polling place on election day. This can include voters with disabilities, elderly voters, prisoners or detainees, people hospitalized or in long-term care facilities, and certain “duty” professions, including those involved in election day, such as polling staff and police officers. Homebound voting may also be a means to enfranchise voters who live in areas too sparsely populated to establish a central polling station.

Legislators will need to define in the electoral law which groups of voters will be eligible and, in some cases, if and how a voter's eligibility will be substantiated. Determining who is eligible should be premised on voting rights considerations, *i.e.* how to expand voting opportunities to as many voters as possible, but also on practical issues. It may be necessary to limit the categories for participation in homebound voting for a number of reasons, such as time and resource demands to administer such a voting process, challenges in establishing eligibility to apply for homebound voting or the likelihood of fraud.

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<sup>23</sup> Good practice suggests that votes from such categories of voters should, where possible, be mixed with those from the general voting population, such as the nearest polling station, in order to lessen the possibilities for undue intimidation and violation of voter secrecy. See Section I.3.2.xi of the VC [Code of Good Practice](#).

<sup>24</sup> See, for example, the 2003 [OSCE Maastricht Ministerial Council Decision No. 5/03](#).

Where possible, citizens should not be forced to use home and institution-based voting option simply because they belong to a certain category of voters, such as the elderly or voters with disabilities. These voters should always have the possibility to cast a ballot at a regular polling station and to *opt into* a homebound voting practice only if they choose to do so. For voters who are incarcerated, hospitalized or other institutionally confined voters, voting options may understandably be more limited.

***Case study: Introducing homebound voting and voting in special care institutions***

In one participating State, the authorities held parliamentary discussions and consultations with stakeholders on ways of enabling voting by any citizens who might be in COVID-19 quarantine during the elections expected later in 2020. Under the legal framework in force, it would have not been possible to facilitate voting by such people. In addition to plans to organize drive-through voting, it was agreed to set-up special polling stations in special care institutions, including retirement homes, and to provide home voting by designated teams of election officials. The options of postal and proxy voting were also discussed but were not approved.

**Application process:** Application processes for home and institution-based voting are defined by election law and are often further regulated by EMBs. Voters who intend to *opt in*, or to use these practices, typically apply to the local EMB or registration authority. Deadlines for requesting home and institution-based voting vary – some participating States require such requests well in advance of election day, while others accept requests only on the day prior to or on election day itself. Where advance deadlines are used, they should be set as close as possible to the election day to encourage greater participation and to account for last-minute changes in a voter’s status, such as hospitalization or professional obligations. Some participating States also have additional, emergency home and institution-based voting procedures to accommodate such scenarios.

Practices vary widely on how requests for home and institution-based voting are made and on burdens of proof required. Good practice suggests that the application process should not be overly complex to the point of discouraging voters. At the same time, some type of formal request and declaration should be required of a voter to confirm the voter’s understanding of the process and intent to participate in home and institution-based voting.

Additional documentation is sometimes required to establish eligibility. However, consideration must be given as to whether such practices might be discriminatory, or whether all voters in need of home and institution-based voting have access to the required documentation. For example, many voters with disabilities may not have declared the disability or have access to legal documents attesting to it. For voting populations that are relatively fixed and that have no option to vote in polling stations, such as in prisons or hospitals, there may be no application or burden of proof required. In such cases, a mobile ballot box may be used or a special station created.

**Voter lists:** Both eligibility and application considerations for home and institution-based voting typically require some type of modification to voter lists or the creation of special voter lists. As during regular voting, voter lists control home and institution-based voting, limiting it to only those citizens who are eligible or have applied to use it. A common, good practice is to not remove voters completely from their original voter lists, but rather to denote the fact that the voter is participating in home or institution-based voting. Such information may be important to election officials, candidates or observers. It can also help facilitate the remedy of errors in voter lists should voters later present themselves in person in the polling station.

KEY QUESTIONS:

- ✓ WHAT CATEGORIES OF VOTERS WILL BE ELIGIBLE FOR VOTING AT HOME OR AT AN INSTITUTION?
- ✓ WILL HOME OR INSTITUTION-BASED VOTING TAKE PLACE THROUGH REGULAR OR POSTAL BALLOTS, OR OTHER MEANS?
- ✓ ARE THERE SPECIAL APPLICATION PROCEDURES, REQUIREMENTS AND DEADLINES?
- ✓ WHEN WILL HOME AND INSTITUTION-BASED VOTING TAKE PLACE AND WHO WILL ADMINISTER IT?
- ✓ CAN OBSERVERS MONITOR HOME AND INSTITUTION-BASED VOTING?
- ✓ HOW ARE BALLOTS CAST INCLUDED IN THE POLLING STATION AND OVERALL RESULTS?

**Voting method:** States must also decide on the method(s) for home and institution-based voting. As mentioned, the defining feature of home and institution-based voting is that the ballot is brought to and retrieved from the voter outside a polling station. Typically, a voter casts a “regular” ballot into a mobile ballot box or completes a postal ballot “in-person” at the place of stay.<sup>25</sup> Home and institution-based voting may also use online options for eligible voters to request and cast ballots. There may also be more than one voting method available to voters. In such cases, it is important that these voting options not be discriminatory, and each be available for every eligible voter.

The secrecy of the vote is a primary concern for election officials using any home and institution-based voting method. Where possible, voting stands and ballot secrecy sleeves are used to administer either postal voting at the place of stay or voting via a mobile ballot box. For voting systems that employ ballot marking and recording devices, their use in home and institution-

based voting may not always be possible, and more traditional voting methods like paper ballots are used. In such cases, voters who use such alternative methods for home and institution-based voting must have the same choices available to them, and paper ballots should resemble those used in any electronic balloting systems.<sup>26</sup> For EMBs with political party representation,

<sup>25</sup> For the purposes of this paper, if an eligible voter who applies for and casts a postal ballot through the traditional postal voting system available to certain categories of voters, such voting is not treated as homebound voting.

<sup>26</sup> For example, limiting a homebound voter for “practical reasons” to only the local or national constituency in a multi-constituency electoral system, or in an open list system to only the party vote, would not be assessed as meeting OSCE commitments.

there needs to be political balance among officials carrying out home and institution-based voting.<sup>27</sup>

**Voting period:** The period when an election administration should carry-out home and institution-based voting is often determined by practical considerations. Voting by mobile ballot box typically takes place in the period immediately preceding election day or on election day itself, as the polling station staff required to administer such voting are only employed on or close to the day of voting. Postal voting at a voters' place of stay may be conducted further in advance of election day, although there is no requirement to do so.

**Observation:** Building transparency into home and institution-based voting is important to maintaining public trust in an election. Observers should be explicitly afforded rights to monitor the procedures related to carrying-out home and institution-based voting.<sup>28</sup> It is also good practice to announce in advance when home and institution-based voting will take place – to inform both these voters and observers.

**Counting and tabulation:** Procedures used in the counting and tabulation of home and institution-based voting generally do not differ from the counting of votes for general voting. Exceptions to this practice may take place in cases where the technologies used for home and institution-based voting differ to the voting in polling stations and require a separate counting method. It is important that voter anonymity and vote secrecy are respected, especially where the number of ballots cast in this manner is low. Lists of persons voting at home or in any institution should not be published.<sup>29</sup> For audit purposes, it is important to keep the records and accompanying documents providing for accountability of home and institution-based voting. However, the results of such voting can be sensitive, especially where the number of ballots is small, or they refer to a particular group (police officers, prisoners, patients at medical facilities, etc.). Therefore, it is recommended to combine these votes with those at the respective regular polling station in order to protect vote secrecy.

*Case study: Adapting home-bound voting practices during the pandemic*

In response to the pandemic, one EMB adapted the procedures for voting at home and made them available to voters in self-isolation and those infected with COVID-19. Voters could request to receive a mobile ballot until noon on election day. People infected by COVID-19 were not allowed to have any direct contact with election officials and with ballots and relied on the assistance of a trusted person to fill in ballots on their behalf and to pass them to the mobile ballot team remaining outside these voters' homes. There were approximately 1,800 requests for voting from home, of which some 600 requests came from voters in self-isolation and 60 voters suffering from COVID-19.

<sup>27</sup> Paragraph 40 of the Explanatory Report to the VC [Code of Good Practice](#) advises that, "Should [mobile ballot boxes] nonetheless be used, strict conditions should be imposed to prevent fraud, including the attendance of several members of the polling station election commission representing different political groupings."

<sup>28</sup> Paragraph 91 of the Explanatory Report to the VC [Code of Good Practice](#) implies, "The law must be very clear as to what sites observers are not entitled to visit, so that their activities are not excessively hampered."

<sup>29</sup> According to section 4.c of the VC [Code of Good Practice](#), "The list of persons actually voting should not be published."

## E. Arrangements in polling stations

### 1. General principles and considerations

As the most common form of voting, election day procedures in polling stations and their linkage to international obligations and standards are well established and documented. Nevertheless, sometimes innovations are made to augment traditional methods, and new procedures are inspired by unforeseen events. Such innovation should be embraced. Indeed, some changes could expand enfranchisement by making voting more accessible or convenient for various groups, including marginalized ones.

In 2020, EMBs throughout the world considered the kind of changes they could make to address health and safety concerns brought on by the COVID-19 and to create a safe environment for voters to cast their ballots in a regular way, in-person in polling stations. One of the key priorities for in-polling station voting in the conditions of the pandemic was to ensure an efficiently controlled flow of voters and to prevent crowding inside and immediately outside polling stations, with the aim of minimizing the risk of voter and staff infection. Various solutions and risk mitigating measures discussed in this section have been and may be employed.

All of the preparations for conducting an election during a public health emergency require considerable planning and preparations in advance. EMBs should think proactively of potential challenges and problems that may arise at various levels and stages and try to address these issues in advance, including through legal amendments, changes to sub-legal acts, as well as training and public information. In some cases, this may include constituting lower level election commissions earlier than they would normally be created. As a general approach, it is recommended to develop and maintain contingency plans as an integral part of election management.<sup>30</sup>

Any adjustments to polling station arrangements should always be evaluated against international obligations and standards, and good practice in electoral matters. New procedures must be considered with a mind toward the fundamental freedoms that voters should enjoy and which should not be compromised. Assessing the eligibility of voters and providing them ballots must be carried out in an impartial manner. Ballots must be cast in *secret*, without any potential for

## Arrangements in polling stations

Arrangements in polling stations tend to follow a fairly generic format globally, with minor variations. With concerns regarding public health emergencies on the rise, considerations to alter such arrangements, temporarily or not, are being explored. Any system can be improved and made more efficient. Nevertheless, all such changes must consider international obligations and standards, good practice, as well as national legislation.

In this paper, arrangements in polling stations will include not just the interior of polling stations, but any arrangement in and around polling premises for in-person voting, no matter where it is.

<sup>30</sup> ODIHR's [OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic](#) publication recommends participating States to, "use the opportunity to review their electoral legislation and assess the extent to which it covers situations like the pandemic just experienced, and to fill in the gaps in preparation of future similar emergency situations." It also encourages the establishment of contingency plans and considering the preparedness of authorities other than EMBs.

coercion, intimidation or vote-buying.<sup>31</sup> *Universal* suffrage must be upheld for all categories of voters, including accommodations for and access to polling stations for voters with disabilities.

Small changes related to the set-up in and around polling stations that appear to address one concern, may create other unintended consequences that conflict with international standards and good practice. For example, an EMB may seek to minimize contact between polling staff and others present in polling stations and change procedures to enable observers to stay only for limited periods of time or to require them to remain in a corner of a polling station. These changes would have the effect of preventing observers from carrying out their work effectively as they would not have the ability to follow all election day procedures and may not have a direct view of all the processes, for instance voter registration or counting procedures. This small change with seemingly good intentions, would thus create other problems, reducing *transparency* and jeopardising observer access, contrary to paragraph 8 of the OSCE Copenhagen Document.

Therefore, as participating States want to enhance their elections, they should seek to address previous ODIHR recommendations regarding polling stations and election day procedures, and ensure that any new procedures also meet international standards and good practice.

Ultimately, EMBs are public service providers and should be striving for efficiencies for polling staff and voters as their 'clients'. Many of the efforts an EMB could put into place can also be effective in reducing concerns regarding safety during a public health crisis. For example, if procedures are altered to reduce the time a voter spends in a polling station by 30 per cent, that has an immediate public health benefit, as minimizing time in close, communal settings is a recommendation from health authorities. Sufficient resources, be it staff, supplies or the polling locations themselves, are crucial during public health emergencies.

Should an EMB face running an election during a public health emergency, such as the COVID-19 pandemic, it is critical to provide extraordinary transparency for all key stakeholders, especially voters, on how the EMB is addressing issues, how that will affect voting and how voters and polling staff will be protected. The EMB must proactively spread public information about what safety measures it is taking and why. This transparency can build trust in the system, which is a significant tool to encourage citizens to exercise their right to vote.

## 2. Practical considerations

**Location:** The location of polling stations can be an important determinant in defining whether voters can or will access voting. *Universal access* is critical with regards to location and includes elements such as proximity to voters, as well as accessibility for seniors and people with disabilities.

Public health emergencies can impact the space needed in polling stations. During the COVID-19 pandemic, EMBs could identify locations with greater space so polling staff, voters and observers could be kept at a greater, more protective distance from one another. To that end, locations that include an entrance and exit at opposite ends of the voting area are desirable, allowing the process to flow from the dedicated entry to the dedicated exit so voters do not have to pass by each other.

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<sup>31</sup> Paragraph 7.4 of the [OSCE Copenhagen Document](#) requires participating States to, “ensure that votes are cast by secret ballot or by equivalent free voting procedure.”

In the overwhelming number of OSCE participating States, polling is conducted indoors. Indoor locations should offer effective ventilation systems to circulate clean fresh air. However, polling stations can be established in any space that meets the needs of all stakeholders. Conducting polling outside can be considered and has been done in the past in both cold and warm locations. Outdoor polling stations provide a number of positive elements, including high levels of ventilation, which is recommended by health authorities. The space can be configured to suit the needs of the process, level access is typically a given and there is usually excellent visibility of the facility. A large concern with an outdoor polling station is wind, which can cause havoc with all the sensitive materials; however, if the station is protected with a tent and good tent walls, these issues can be well mitigated.

**Layout:** Many different layouts may be considered, but the basic functions, including security and integrity of a polling station, must be retained. Generally, a voter would first visit a check-in desk where the voters' identity can be confirmed and a ballot issued. An area to mark ballots in secrecy and to deposit ballots upon marking would be designated.

In some systems, voters are required to bring completed ballots back to the registration desk for the back side of ballots to be stamped. While this procedure is argued to serve greater ballot control, it is both contrary to good practice<sup>32</sup> and increases interactions between the voter and election officials. The latter can significantly slow queues as election officials must wait for voters to complete the whole process before moving to the next voters.

During a public health crisis, it is important to extract maximum use from a voting room to ensure voters, staff and observers are able to maintain distance from one another where practical, while at the same time remaining capable of performing their duties. For example, a key element of the process involves at least one official who identifies voters on the voter list and another who hands out ballots to voters. It may be enticing to move these election officials further apart for their safety, but their work is so intertwined that it would be better to put protective plexiglass between the two, so they can still follow each other's work.

**Queue management:** It is important that polling station staff strive to be as efficient as possible at ushering voters through the voting process. If queues do form, measures to enhance transparency regarding what process awaits voters and how long the queue is are appreciated by voters.

Managing queues can be greatly assisted by efforts to remove choke points in the voting process. Testing should be done well before election day in order to time how different voters go through the process. This allows for adjustments to be made to the ratio of registration desks, voting screens and ballot boxes in a station and reduce queuing at any particular stage. On election day, being able to shift resources to address any particular choke point is of great value for processing voters as efficiently as possible.

Simple measures can be taken to enhance queue control and allow for greater clarity in how election officials would like voters to proceed through the voting process. Generous use of well-considered signs, rope or bright tape on the floors, streets or walls can provide visual clarity on

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<sup>32</sup> Paragraph 35 of the Explanatory Report to the VC [Code of Good Practice](#) indicates that, "the voter should collect his or her ballot paper and no one else should touch it from that point on."

where voters should be standing or flowing through the process. As well, during a public health emergency, it is advisable to maintain and manage the queue as much as possible outside the polling station in order to reduce the time indoors, with other voters in the room.

Many participating States provide special accommodations and priorities in queues for people with disabilities, the elderly or other voters in higher risk groups. Such procedures are welcome and should be formalized well in advance of elections with written, clear definitions of who may

KEY QUESTIONS:

- ✓ ARE CURRENT POLLING STATIONS LARGE ENOUGH TO HANDLE EXTRA SPACING REQUIREMENTS?
- ✓ WOULD IT BE POSSIBLE TO CONDUCT VOTING IN OUTDOOR OR TENTED POLLING STATIONS?
- ✓ HAVE POLLING PROCEDURES BEEN TESTED TO DETERMINE WHICH AREAS REQUIRE GREATER RESOURCES?
- ✓ CAN GREATER TRANSPARENCY AND INFORMATION BE PROVIDED TO VOTERS TO CREATE MORE TRUST?
- ✓ WILL ANY PROCEDURAL CHANGES HAVE A NEGATIVE IMPACT ON OTHER VOTERS, SUCH AS CITIZENS WITH DISABILITIES?
- ✓ WILL PARTY AND CITIZEN OBSERVERS GET ACCESS TO OBSERVE ANY NEW PROCESSES?

access priority service and what it entails. Clear election day signage identifying this can go a long way in encouraging relevant citizens to use the priority access and avoiding any tension that could arise if some citizens feel others are receiving undue preferential treatment.

**Hours:** The opening hours of polling stations may have a dramatic effect on the enfranchisement of voters. They should remain open for a sufficient number of hours to allow various categories of voters to be able to vote throughout the day. The majority of participating States conduct elections on weekends, which typically provides for a more even spread of voting times. For States that conduct voting on working days, just prior to and after work are the heavy voting times.<sup>33</sup> Any concerns that voting hours may have a negative effect on the participation of any voter group should be quickly addressed.

In seeking to enfranchise particular groups, such as seniors, people with disabilities or vulnerable groups, as well as people infected with COVID-19 or those in isolation,

consideration could be given to extending working hours of polling stations for an hour or two on election day or organizing voting on additional days. These measures provide opportunities for these groups to vote separately from the bulk of the electorate, which may be especially important to consider during a public health crisis.

A more rigorous delineation of voting times could include assigning voters specific hours or days (for instance, by last name or address) when they would be offered the opportunity to vote. Such procedures may be used by election officials to better space out voters, while seeking to provide greater efficiency at polling stations and reducing turnout during popular voting times. This can be nuanced by giving priority to voters arriving during their allocated times, but still allowing others who arrive outside their specified time slots to vote to avoid disenfranchisement.

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<sup>33</sup> If voting is on a workday, consideration to turning election day into a holiday or requiring employers to provide a few hours off to cast a ballot can avoid before and after work voting rushes that can overcrowd polling stations.



Careful planning, as well as proactive and comprehensive voter education are required in order to minimize any perception of favouring one group of voters over another. Complaints of unequal access to the polls are likely, with some voters being allocated what they perceive to be “difficult time slots”. Hence, while this may be an effective manner of spacing out voting, there are risks of inadvertently disenfranchising people and stifling turnout with inconveniences.

**Drive-through voting:** Some jurisdictions have considered the idea of drive-through voting, which would allow voters to queue in their cars, pick up ballots at registration desks, mark and cast their ballots without leaving their vehicle. Such a method could be of particular value during a public health emergency, but a number of considerations must be made with regard to secrecy, transparency and efficiency.

While drive-through voting may be convenient and appealing to some voters, it might be an option only for a small segment of the electorate. In addition, officials must consider how to handle situations when several voters are sharing a vehicle as the secrecy of the vote may be compromised. When establishing drive-through voting, aspects related to staffing, including in order to ensure political balance and impartiality, should also be considered. Ballot security must be maintained and transparency provided, including ensuring observers are able to follow the process.

**Staff:** During a public health emergency, EMBs must do their utmost to protect and maintain staff health. Should staff begin to fall ill, viruses can travel quickly to other election officials and the EMB may not have the replacement staff to cover for every sick staff member. Staff should not feel pressured to come to the polls if feeling ill and significant numbers of alternative staff should be hired to be called-in at short notice as replacements, if needed.

To that end, an EMB may consider providing special polling stations or polling mechanisms for individuals who are either infected or in isolation. This is a strong step toward guaranteeing the enfranchisement of these citizens. Election officials working at such stations or facilitating voting by people in self-isolation or known to be infected need to be extremely well-trained in both health and safety measures, as well as health protocols when conducting voting for these groups. Advice on protective measures and support from the health authorities in administering the vote should be sought.

**Protective equipment:** Should a public health emergency arise, EMBs could use various protective equipment to protect both staff and voters. Providing protective equipment for polling staff is also a means of making voters feel safer about casting their vote during an uncertain time.

Physical barriers, such as plexiglass, can be used to protect voters and staff in instances where physical distancing is not practical, such as at registration desks. Also, cleaning supplies can be made available in sufficient quantities for general cleaning purposes throughout polling stations. Furthermore, for critical touch points such as pens, touch screens and voting booths, disinfectants and sanitizers can be made available and encouraged to be used regularly and often by voters and staff.

Depending on regulations in place for the use of masks in public places and buildings, voters may be obliged or encouraged to wear masks in polling stations. It is also recommended to encourage voters to bring their own pens to sign voter lists and to mark their ballots. However, if any equipment is required for voters to cast a ballot, it is incumbent upon the election administration

to provide it to voters arriving without any such equipment, on the spot. Voters should never be disenfranchised because they did not bring their own required pen, mask or other protective equipment. This would require EMBs to ensure that each polling station has a sufficient stock of the required equipment for public use.

Extensive and proactive public education campaigns must be implemented to inform voters of any requests or requirements regarding what voters may be required or encouraged to bring to reduce transmission of the disease.

## F. Use of new voting technologies

### 1. General principles

Technology can be of remarkable support in the conduct of elections. Benefits associated with automated processes include, among others, greater efficiency in administration, easier outreach and accessibility for voters abroad, improved accuracy in counting and tabulation, reduced space for human error, and quicker publication of election results. However, technologies used for the casting and processing of votes also pose a number of challenges in light of international standards. ODIHR's [Handbook for the Observation of New Voting Technologies](#) could be consulted for a comprehensive overview and guidance.<sup>34</sup> This subsection emphasizes some of the key considerations in relation to alternative voting methods.

Ensuring *secrecy* is one of the key challenges posed by NVT that involve voting outside the controlled environment of polling stations, including Internet voting. With these forms it is difficult to ascertain that the votes are cast in secret, without any interference with voters' will, influence or subsequent repercussions. These considerations are particularly pertinent in relation to voters belonging to vulnerable groups.

In the context of NVT, secrecy also means that votes cast should not be traceable to the voters who cast them, and that voters should not be able to prove to anyone how they voted. Technological solutions should be employed to break the link between

### Voting using NVT

The term NVT refers to the use of information and communication technologies for casting and counting of votes. This typically includes the use of electronic voting machines to cast votes, in-polling station ballot scanners, and Internet voting. Other terms used to refer to these forms of voting include "electronic voting" or "remote voting." Technology can also be used in other electoral processes, such as in the identification of voters and the transmission of results.

Voting using NVT might be offered in parallel to regular paper-based voting in polling stations or serve as the sole mechanism for the intake and processing of votes. The possibility of verification of votes cast and results generated varies considerably depending on the type and functionalities of NVT used.

Several OSCE participating States integrated or piloted the use of such technologies in their voting processes. A few continue to provide them, while others discontinued their use due to various challenges encountered.

<sup>34</sup> See ODIHR [Handbook for the Observation of New Voting Technologies](#).

voters and ballots they cast.<sup>35</sup> However, the effectiveness of any similar built-in safeguards is difficult to verify without sufficient technical expertise. NVT in general render direct *observation* of a number of elements of the voting process challenging or impossible.

The requirement of *universal* suffrage means that all eligible adult citizens must have the opportunity to participate in an election and effective means for their participation should be provided. Applied to NVT, it means that any system should be designed in such a way that as many voters as possible can use it, without it being unnecessarily complicated.<sup>36</sup> In cases where voters have difficulties voting with NVT, they might be provided with the option to use paper ballots (potentially together with NVT used to count and record ballots). The adoption of technology that discriminates against certain groups of voters or discourages them from participating would not be in accordance with OSCE commitments. At the same time, NVT can also be highly effective in enfranchising minority language groups and people with disabilities. For example, in electronic voting systems ballots and instructions can often be more easily displayed in the languages of other recognized national minorities, the font size can be adjusted, and audio ballots enabled for voters with visual impairments.

#### *Case study: Facilitating voting by people with disabilities through technology*

In order to make voting accessible to more voters, some jurisdictions in one participating State deployed new voting machines with several features to aid voters with disabilities in casting a vote independently. These machines can accommodate users in a sitting position (including a wheelchair) or standing upright. The machines display the ballot through a touch screen, which allows voters to see the ballot in a number of languages and different font sizes. For those with more severe visual impairments, or who cannot read, the machine also provides an audio ballot. A tactile pad also enables these voters to read braille to navigate the ballot and make their choices.

These voting machines proved very popular with all voters (who still had an option to cast a paper ballot), and also provided other advantages, such as minimizing the likelihood of spoiled and invalid ballots, and undervoting (casting votes for fewer options than available). The technology prevented such situations from happening or alerted the voter to potential issues with their marked ballot. As the ballot content is only provided digitally through the screen to the voter, the use of this technology also removed possibilities of errors in printing ballots or having wrong or insufficient ballots available at polling sites on election day.

Another key requirement of NVT is the *integrity of results* they deliver. This requires ensuring that votes are cast as intended by the voter, recorded as cast by voters, counted as recorded, and that no interference or error can occur during the transfer and tabulation of results. Lack of

<sup>35</sup> Paragraph 26 of the Council of Europe Committee of Ministers [Recommendation CM/Rec\(2017\)5 on Standards of E-Voting](#) mandates that an, “e-voting process [...] shall be organized in such a way that it is not possible to reconstruct a link between the unsealed vote and the voter.” Also, as per paragraph IV.19.a of [Guidelines on the Implementation of the Provisions of Recommendation CM/Rec\(2017\)5](#), “voter register data should be clearly separated from voting components.[...] Separating the two components ensures vote secrecy.”

<sup>36</sup> See paragraph I.1.b of the [Guidelines on the Implementation of the Provisions of Recommendation CM/Rec\(2017\)5](#).

## KEY QUESTIONS:

- ✓ WERE FEASIBILITY STUDIES AND RISK ASSESSMENT CARRIED OUT?
- ✓ ARE NECESSARY FUNDS AVAILABLE?
- ✓ ARE PILOTS AND TESTING ENVISAGED?
- ✓ ARE TIMEFRAMES, INCLUDING FOR PROCUREMENT, REALISTIC?
- ✓ WILL CHOSEN TECHNOLOGIES AND THE SCOPE OF APPLICATION ENSURE ACCESS FOR ALL GROUPS OF VOTERS?
- ✓ HOW WILL SECRECY OF THE VOTE BE ENSURED?
- ✓ IS VERIFIABILITY PROVIDED FOR?

understanding of how exactly NVT operate may lead to reduced trust by parties, candidates and voters in the accuracy of results these systems deliver and in related challenges.

Confidence is enhanced when there is *transparency* about the NVT systems used. Important steps to provide greater transparency include the publication of feasibility and risk assessments carried out as part of a NVT system's development and introduction, release for public information of procurement details, making the system's source code available, as well as provisions for external audit and certification of the system. In line with good practice, confidence is also boosted by ensuring the *verifiability* of individual votes and of their sum while preserving secrecy.

Given these challenges and considerations, it is particularly important that NVT be introduced gradually, following comprehensive analysis and testing, and taking into account associated risks and challenges. Accordingly, although in the context of COVID-19 pandemic public attention was initially drawn to the opportunities given by NVT, many OSCE participating States realized that proper implementation requires substantial time and NVT

might not provide an immediate solution. Furthermore, NVT alone cannot boost confidence in elections. On the contrary, their viability is dependent on the existence of robust electoral frameworks and broad public trust in electoral institutions and the conduct of elections.

## 2. Practical considerations

**Piloting:** Introducing NVT to facilitate alternative voting practices should be a gradual process, with the decision to use any NVT based on a thorough feasibility study.<sup>37</sup> Solutions should also be tried out in advance – *piloted* – using an actual or a “mock” election scenario. Pilots can be “parallel” – using the technology but not in a way that impacts the outcome; or “partial” – using the technology on a limited scale. The decisions to adopt NVT may rely on such pilots, the results of which inform the electoral administration’s approach to full deployment of the technology.

**Testing:** When NVT are deployed, widespread and comprehensive testing is usually necessary at regular stages throughout development and rollout. Testing will enable decision makers to determine the proper functioning of the NVT under different conditions. For example, logic and accuracy testing of voting devices establish that such systems accurately record and tabulate voters’ choice. Voter identification systems will also require thorough testing, including of the ability to correctly identify voters, to avoid false positives and to identify attempts of multiple

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<sup>37</sup> A feasibility study typically follows a policy decision to explore a new technology in voting. Feasibility studies identify all the considerations and consequences of a proposed technology (or of several technologies) to assist policy makers and election administrators in making final determinations on whether to deploy it.

voting. Closer to election day, simulations, load testing and 'dry runs' will be needed to test both the performance of the NVT and the ability of election staff to use it under election day-like conditions. EMBs and other national agencies should also carry out a variety of security tests to prevent access to systems and external attacks. Results of many of these tests should be made available to observers for independent verification.

**Verifiability:** Various solutions may be deployed to check that votes cast were recorded correctly and to enable the verification of aggregated vote totals. Selecting a limited number of voting devices or polling places for a random, manual recount can be an effective means of verifying the accuracy of counting and tabulation for NVT using paper ballots.<sup>38</sup> A paper audit trail on electronic voting machines, also facilitates verification of votes cast. Solutions for end-to-end verifiability are equally important in connection with Internet voting.

**Mitigating risks of technical failures:** Regardless of how reliable and robust NVT systems are designed to be, technical failures are always possible. Such eventualities should be given explicit consideration at the development stage and responses to such problems addressed in system documentation, EMB regulations and instructions. For the integrity of the electoral process, it is critically important to have manual processes in place to address possible failures of technology on election day. For example, paper voter lists to back up electronic registers, or processes to conduct paper balloting in cases electronic marking or recording devices do not work. Even if large-scale use of NVT is envisaged and technological solutions were successfully piloted or used in past elections, poll workers should nevertheless be prepared to switch to manual processes at any moment and have all the necessary materials and solutions in place for such an eventuality.

**Training:** The training of election staff and other users is a critical step in the rollout of NVT. Ensuring that all polling staff are fully trained and capable of administering the processes with the advanced technologies is a challenging task. Training should also take place on a recurring basis, ahead of every election, since poll workers only perform their duties on a single day, typically years apart, and often new commission members are appointed, who may or may not have had experience with the use of technology in the past. Using NVT requires a solid understanding of that technology by election workers, including for the purposes of explaining voting processes and technologies to voters, which is also intrinsically linked to building public confidence. These objectives may be supported by the hiring of additional staff with technical expertise, who are responsible for basic device functionality, networking or other issues related to the technology deployed.

**Observation:** The observation of elections is challenged in new ways by any NVT – there may be no more paper voter list to inspect, or no opportunity to examine ballots as they are counted. EMBs should explore solutions to guarantee meaningful access to the key processes and to allow effective observation when using NVT, potentially together with the help of political parties and civil society.<sup>39</sup> Observers should also have access to the testing and certification processes, as well as to all the documentation related to the NVT used.<sup>40</sup>

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<sup>38</sup> Such verification may be performed by a body independent from that conducting the election, such as a judicial body or other independent agency.

<sup>39</sup> Paragraph 34 of the Council of Europe Committee of Ministers [Recommendation CM/Rec\(2017\)5 on Standards of E-Voting](#) states that, “any observer, to the extent permitted by law, shall be enabled to observe and comment on the e-elections, including the compilation of the results.”

<sup>40</sup> The [Guidelines on the Implementation of the Provisions of Recommendation CM/Rec\(2017\)5](#) state that, “domestic and international observers and the media should be able to observe the testing of the software and hardware. Stakeholders, including accredited observer groups, should not only have access to documents, but should also be able to observe the verification of the e-voting devices and system.”

## VI. Conclusions

There is a great variety of approaches to how election procedures could be organized and administered, and the choice of voting methods and arrangements rests with individual OSCE participating States. States should nevertheless ensure that their electoral procedures, even if temporary in nature, are compliant with international obligations, standards and good practice, and duly safeguard the rights of all the categories of voters and other stakeholders. With the COVID-19 pandemic having sparked debates about the benefits of voting methods and arrangements alternative to traditional paper-based, in-polling station voting, adoption of any such new solutions should be carefully considered in terms of feasibility, compliance with the principles of democratic elections and potential side effects.

While alternative voting methods and arrangements may help minimize exposure to health risks and could contribute to making elections more accessible and convenient for voters, these possible benefits need to be weighed against the challenges these methods can pose to secrecy, equality and universality of the vote. Decisions to alter voting methods and arrangements in and around polling stations need to be preceded by comprehensive analysis, consultation and planning.

It is important to understand that successful introduction of alternative methods of voting should rely on the existing trust in institutions and democratic processes in the country. To safeguard public confidence, it is crucial for any changes to voting methods and procedures to be an outcome of inclusive consultations with all key institutions and stakeholders. It is important for the preparatory work to be launched and completed well in advance of elections to leave the stakeholders, including EMBs, political parties, civil society and voters themselves, sufficient time to adjust to the new arrangements. This should include timely development and adoption of necessary amendments to the legal framework and procedures, training of election officials, as well as proactive and comprehensive voter information and education campaigns.