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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

INFORMATION REPORT
ON
ELECTORAL LISTS AND VOTERS ABROAD
IN BULGARIA, MOLDOVA AND TUNISIA

on the basis of comments by

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I. Introduction

1. At its 45th meeting (13 June 2013), the Council for Democratic Elections raised for the first time the issue of voters residing *de facto* abroad while being still registered as resident in-country, which had not been dealt with in the Report on out-of-country voting (CDL-AD(2011)022). This question was raised following suspicions of fraud by impersonation of voters residing *de facto* abroad; they were sometimes indicated as having voted whereas it is very doubtful that they were in the country on polling day. At its 46th meeting (20 December 2013), the Council for Democratic Elections discussed the issue on the basis of a secretariat memorandum (CDL-EL(2013)011). This document underlined the absence of a common definition of the concept of residence (or domicile); it pointed out other elements to be taken into account before deciding whether to study the management of electoral registers with regard to voters residing *de facto* abroad who remain registered as residents in their country of origin. The Council decided to proceed with its reflexion on the issue.
2. This first led to the preparation of “comments on security in elections when dealing with citizens living *de facto* abroad: the experience of Latin America” (CDL-EL(2015)002) by Ms Alanis Figueroa.
3. At its 49th meeting (13 December 2014), wishing to take the experience of other countries (including European ones) into account, the Council for Democratic Elections requested the Secretariat to prepare a paper on specific countries which had recently faced challenges on the accuracy of voters’ lists and organised elections for voters residing abroad.
4. Individual contributions were prepared by Mr Tanchev on Bulgaria (CDL-EL(2015)008), Mr Iure Ciocan (expert) and Mr Esanu on Moldova (CDL-EL(2005)005), and Mr Mohamed Krir (expert) on Tunisia (CDL-EL(2005)007). The issue of voters residing abroad is of particular interest in these countries since, even if exact figures are difficult to establish, the part of their population abroad is very high; a very conservative approach will lead to saying that it is superior to 10 %.
5. This report, which is based on the above-mentioned national contributions, will focus on the way national legal orders enable voters who are abroad on the day of voting to take part in the vote and prevent double vote and impersonation. More details can be found in the national contributions. The report will therefore start with the rules on voters’ registration, then deal with those on the establishment of polling stations and voting and finally address the issue of citizens *de facto* abroad but staying on electoral lists inside the country.
6. In parallel, the Council for Democratic Elections, at its 49th meeting, requested Ms Alanis Figueroa and Ms Christina Binder (expert, Austria) to provide comments on the above-mentioned memorandum prepared by the Secretariat on electoral lists and voters residing abroad (CDL-EL(2013)011); see documents CDL-EL(2015)003 and 004. In particular, Ms Binder’s comments (CDL-EL(2015)003) underline the main problems in the field and possible next steps.
7. The present report is also intended as a contribution to the reflection on possible further developments of the activities of the Council for Democratic Elections on voters (*de facto*) abroad.
8. The Congress of Local and Regional Authorities of the Council of Europe carries out a similar reflection (see “Electoral lists and voters residing *de facto* abroad”, CG/2015(28)6PROV).

9. The Council for Democratic Elections took note of this report at its 50th meeting (Venice, 19 March 2015).

II. Voters' registration

10. In the countries under consideration, the right to vote for national elections is recognised to all citizens whatever their place of residence, permanent or temporary. The fact that citizens are legally or illegally abroad is not taken into consideration.

Bulgaria

11. In Bulgaria, while passive registration is applied to in-country voters, only active registration applies out-of-country, which can cause some logistical difficulties. Bulgarian nationals who reside outside Bulgaria and who enjoy the right to vote and are willing to vote are invited to apply in writing at least 25 days prior to the Election Day. The application has to be hand-signed and submitted in person or dispatched by letter to the diplomatic mission or to the consular service of the Republic of Bulgaria in the relevant State. One letter may contain more than one application, but one application per person is required. The application may also be done via the CEC Internet site. The voters have to enter their names as they appear in the passport, the military card or the identity card, the Standard Public Registry Personal Number (EGN) and the domicile in the Republic of Bulgaria. They have also to write the place abroad where they wish to vote. The heads of the diplomatic missions or of the consular services of the Republic of Bulgaria forthwith transmit the applications received from applicants who wish to vote abroad by electronic means to the Central Election Commission (CEC). The CEC checks the particulars as supplied in the applications in writing not later than 22 days prior to the Election Day.

12. Bulgarian nationals who have not been disfranchised and who go to the polling station on the Election Day without prior notification are added to the roll for voting and thereafter admitted to vote upon showing an identity document and making a declaration to the effect that they will not vote elsewhere.

Moldova

13. Moldova provides for three ways of registering citizens abroad. (1) Diplomatic missions and consular offices establish a first version of the electoral lists on the basis of diplomatic and consular registration. Such registration is made at the request of citizens residing permanently or temporarily abroad for informative purposes (so not specifically in view of elections). At the beginning of the electoral period, the mentioned institutions publish the electoral lists and they update them 25 days prior to the date of elections. The updated lists are then sent to the Central Electoral Commission. This is the only aspect of registration which could be considered passive, whereas passive registration is the rule in-country. The registration or lack of registration has no legal consequences. Therefore, these lists usually include a very small number of persons.

14. (2) Moldovan voters abroad are registered on (ordinary) electoral lists on request. They are able to register online at the earliest 6 months and at the latest 40 days prior to Election Day (pre-registration). Pre-registration is not mandatory and in practice the number of voters who apply for pre-registration is low too.

15. (3) Voters who do not have consular registration and did not require pre-registration, can vote anyway, but on the supplementary list, at any polling station opened abroad.

16. In every case, the voters lists include the voter's last name and first name, year of birth, series and the number of his/her identification document.

Tunisia

17. Since the 2011 elections were the first free ones, Tunisia did not want to use the former electoral register but decided to start from scratch. This led to a system of active registration, in-country as well as abroad. An element of passive registration was also retained. In a first stage, voters abroad could register with their passport in a registration bureau in Tunisia or in a Tunisian consulate. Then the possibility was given to register by e-mail, telephone and fax. The number of registered voters (the “volunteers”) was however limited. In a second stage, automatic (passive) registration took place on the basis of data available in Tunisian consulates (these data could be out-dated). This did not prevent a big number of potential voters from not being registered and ISIE (*l'Instance Supérieure Indépendante des Elections*) allowed, from the second day of voting abroad – and without any legal basis – voters not yet registered to be added on a complementary list. This was an exception to the centralised electoral list, which might have led to irregularities.

18. Such a problem could be avoided in 2014. Only the so-called “volunteers” of 2011 were put on the lists without having to ask for it. Other out-of-country voters could register online (by giving their identity number) or in registration bureaus established in Tunisian consulates or their annexes, with their identity card or passport. Another possibility was to register during a stay in the country but for a constituency abroad. Whereas the identity card was the only document accepted for Tunisians residing in the country, out-of-country voters could alternatively use the passport, for which there does not yet exist a centralised database. As will be seen below, a reconciliation of data took place after the end of registration in order to avoid double entries.

Measures against double registration

19. In order to avoid double registration, the legislation of the three countries provides that voters included in electoral lists out-of-country are in principle excluded from the electoral list where they were included previously. The three countries use centralised databases (electoral registers). This should lead to the elimination of paper voter lists in Moldova, where they still exist.

20. In *Bulgaria*, the CEC forwards the data of the citizens who registered abroad to the Ministry of Foreign Affairs, which transmits them to the Directorate General of Civil Registration and Administrative Services at the Ministry of Regional Development and Public Works not later than 18 days prior to the Election Day in view of the removal of the people in question from the in-country electoral rolls.

21. In *Moldova*, voters registered in advance of Election Day are automatically removed from the basic list corresponding to their place of residence in the country as soon as they are registered out-of-country

22. It should be noted that, as, in the latter two countries, most out-of-country voters register on Election Day on supplementary lists, these rules do not prevent every double vote. The risk is however weak due to the limited number of persons who, in practice, will be in a position and willing to vote abroad and then to travel to vote again inside the country on the same day.

23. According to *Tunisian* law, in order to avoid double registration, the database is checked at the end of the registration process and only the last registration of each voter is kept. Moreover, some specific security measures have been introduced, including the impossibility for voters registered in 2011 to change their voting centre online for the 2014 elections (they have to go to a registration bureau).

24. In all three countries, further measures may be taken in the polling stations during the voting process, as will be seen below.

III. Establishment of polling stations

25. The countries under consideration do not provide for remote (postal or internet) voting. Voters have therefore to vote at polling stations.

26. The opening of a sufficient number of polling stations, not too distant from the places where citizens stay abroad, is a real challenge. Another issue may be accessibility (polling stations may be too small, or not accessible to citizens with disabilities). Moreover, providing the regular equipment and documentation, including a sufficient number of ballot papers, is not always easy.

Bulgaria

27. Bulgarian law provides that heads of diplomatic missions and of consular services of the Republic of Bulgaria are responsible for elections abroad. They may open polling stations at the diplomatic missions and consular services, but also outside these missions and services, including in states where the Republic of Bulgaria does not have a diplomatic mission or a consular service but in which it has appointed an accredited ambassador.

Moldova

28. The Ministry of Foreign Affairs and European Integration is obliged to create conditions for Moldovan citizens from abroad to freely vote through diplomatic missions and consular offices. All polling stations abroad are under the jurisdiction of the Chisinau District Electoral Council.

29. However, till 2009, Moldovan electoral legislation expressly provided that polling stations could be opened only within the diplomatic missions and consular offices of the Republic of Moldova; thus, around 33 polling stations were opened (corresponding to the number of Moldovan diplomatic missions in 2009). Of course this number was insufficient, it did not cover all voters and the polling stations were too far from their domicile.

30. In 2010, the Electoral Code was changed and it allowed establishing polling stations outside the diplomatic missions. The extraterritorial polling stations are opened with the consent of the government of the respective country. The organisation of these polling stations is carried out by the Central Election Commission, at the proposal of the Government, in cooperation with the Ministry of Foreign Affairs and European Integration and with other authorities of the central public administration.

31. As a result, for the last parliamentary elections (2014), the biggest number of polling stations abroad was created in Moldova's history - 95 (38 polling stations within the premises of diplomatic and consular missions and 57 extraterritorial polling stations).

Tunisia

32. Polling stations for Tunisians abroad are not limited to diplomatic missions and consular services, but include also a number of other premises. For example, more than 100 polling stations were opened in France.

IV. Voting

Bulgaria

33. On Election Day, Bulgarian citizens who vote abroad establish their identity by showing a passport, an identity card or a military identity card (valid only for the military) and sign a declaration to the effect that they will not vote elsewhere. In case the validity of the identity document of the voter has expired, he or she is admitted to voting if he or she presents a certificate issued by the diplomatic mission or consular service of the Republic of stating that the said person has submitted an application for the issuance of a new identity document.

34. The Section Election Commission enters the following particulars from the identity document into the roll for voting: the voter's first name, middle name and family name; the EGN (i.e. the Standard Public Registry Personal Number); the identity document number; the identity document type; the domicile in the Republic of Bulgaria and then let the voter proceed. The voter drops the ballot into the ballot box and signs the roll for voting. If the domicile in the Republic of Bulgaria does not appear in the voter's identity document, the voter has to submit a declaration with a domicile to be entered into the voters' roll.

Moldova

35. Any Moldovan citizen abroad can vote at any polling station established abroad, regardless of his/her status in the host country and regardless if he/she is included or not in the voter list of the respective polling station. Moldovan citizens are allowed to vote on the basis of their passport, even if the validity has expired, or Sailors' ID. According to legislation, Moldovan citizens can have up to two valid passports. Under these conditions, challenges arise for avoiding multiple voting.

36. The provision of the Electoral Code according to which a polling station member applied the special security stamp in the voters' ID before he/she received the ballot, seemed not to be sufficient, as there existed the possibility to vote at several polling stations abroad with different passports and also (in theory at least) in the polling station in-country, at the place of residence, with the national ID.

37. Therefore, in order to exclude multiple votes, and starting from the 2014 parliamentary elections, the Central Electoral Commission has implemented at national level (including in the polling stations abroad) on-line verification of the identity of voters in the State Voters Register and registration of voters' participation in elections, by SIAS (Automated Information System) "Elections" operators. The operator introduces the 13 digits personal identification number from the voters' ID in the on-line application. The check-in request is sent, through internet connection, to the CEC server in order to check if the respective voter voted or not. Moreover, as a supplementary security measure, before receiving the ballot paper, voters have to submit a statement that they abstain from multiple voting, and are informed about their criminal liability in case of breaching that obligation; a polling election bureau member applies a special stamp in the passport, which indicates that his/her holder has already voted.

Tunisia

38. Tunisian law provides that out-of-country voters justify their identity through their passport or identity card. The latter document has permanent validity and it could be difficult to recognise the voters through their photo. In that case, they will be called to submit another document to justify their identity, or verification will take place in another way. Electoral ink is put on the left index of the voter, in order to prevent double voting.

V. The problem of citizens *de facto* abroad but staying on electoral lists inside the country

39. One of the major problems in the electoral field with citizens *de facto* abroad is that they generally stay on electoral rolls in-country. This is in particular the case in countries with passive voter registration such as Bulgaria and Moldova. Citizens abroad – even legally – are not compelled to de-register and/or to register at diplomatic or consular services so they stay on the electoral rolls even if they have left the country for years. The risk is then not double vote but impersonation (which is also possible in countries which do not provide for out-of-country voting).

40. The rules against double registration have no effect in such situations. Strict identity checks are therefore carried out to avoid impersonation. In Bulgaria (save for limited exceptions where the internal (green) passport is still admitted), voters must prove their identity with an identity card. In Moldova, an identity document is necessary, and a stamp is put on the accompanying document of this identity document. In Tunisia, voters who vote inside the country, like out-of-country voters, have to justify their identity through their identity card or their passport; as already said, a supplementary verification takes place if they are difficult to recognise through their photo, and electoral ink is put on the left index.

VI. Conclusions

41. The case-studies on Bulgaria, Moldova and Tunisia, which are countries with a big proportion of voters abroad, show that these countries took important steps in order to make out-of-country voting possible, albeit excluding remote voting. A big number of polling stations were opened, not only in consular or diplomatic services, but also on other premises.

42. Even if some aspects of passive registration exist in Moldova and were used in Tunisia in 2011, active registration is the general rule in the countries under consideration. Centralised voter registers are used to prevent double registration; when voters are registered at a new place, they are deleted from the list of their previous residence. There is an exception when supplementary lists, where voters can be added on Election Day, are used; Bulgarian and Moldovan law still provide for such lists, which were used without a legal basis for Tunisia in 2011, but not in 2014.

43. Impersonation is a major risk when people *de facto* abroad stay on electoral rolls in-country without being registered abroad. In order to avoid it, the three countries provide for strict checks of the voters' identity at the polling station.