



## MINUTES

### Twelfth Meeting of the European Cooperation Network on Elections

24 January 2022

The twelfth meeting of the European cooperation network on elections took place on 24 January 2022, chaired by Irena Moozova, Director for Equality and Union citizenship in the Directorate-General for Justice and Consumers (DG JUST).

#### **1. Welcome by VP Jourová and feedback from Member States on the recent Commission proposals on political advertising and electoral rights.**

VP Jourová welcomed the participants and presented the Commission (COM) proposals to legislate political advertising and to update the existing directives on rights to vote in European Parliament elections and municipal elections, adopted on 25 November 2021.

EE inquired about the possibility of broadening the scope of the directives on rights to vote to protect EU citizens living in third countries. EE also inquired about the reasons for the EU to regulate political advertising beyond the elections to the European Parliament.

VP Jourová explained that there are 1.3 million EU citizens living outside the EU that are registered to vote and only 200 000 of them are actually voting. She stressed that their rights should not be abandoned indeed. On the reasons to regulate political advertising beyond the elections to the European Parliament, she explained that the legal basis is the regulation of the digital space, where there is an agreement with the Member States that COM would take initiative when there is the need. COM identified the same type of issues regarding political advertising in all Member States.

COM explained that further protection of the rights to vote of EU citizens living in third countries are considered for the update of the European Electoral Act but are not part of the COM proposals of 2021. Regarding the proposal on political advertising, COM emphasized the cross-border dimension of political advertising and the fact that in many EU Member States elections to the European Parliament happen at the same time as national elections. Therefore, campaigns for both elections go hand in hand.

Several Member States welcomed the COM proposals. One Member State mentioned being pleased that citizens will have more information to make their own choices and that EU mobile citizens will have less obstacles to exercise their rights to vote. Another Member State indicated that the COM proposals need to be analysed in detail and that some aspects need reflection. For instance, with regard to political advertising, this Member State considers that the proposal does not sufficiently cover financing and

influence from parties outside of EU and that the working groups at the Council should consider the technical and political implications of the COM proposals.

VP Jourová mentioned that reflection on the COM proposals is welcomed and both proposals would be discussed at the Council the day after.

The **French Representation to the European Union** intervened to explain how the discussions about the COM proposals on political advertising and the electoral directives will be organised at the Council, in the working group for general affairs. The representative confirmed the commitment of FR to advance as much as possible with the proposal on political advertising so that the text is adopted for the European Parliament elections in 2024.

VP Jourová invited participants to follow the debates in the Conference for the Future of Europe, where there has been a lot of debate to change the electoral system for the European Parliament elections in 2024.

COM recalled that the mechanism for electoral resilience is available for the use of the Member States.

## **2. Venice Commission and ODIHR on high election standards during pandemics. Intervention by France on preparation for upcoming elections. Member States roundtable to exchange recent developments and best practices on elections during COVID times chaired by French experts**

A representative of the **Venice Commission**, the Council of Europe's body specialised in constitutional matters, presented on respecting international electoral standards during pandemics.

The Venice Commission representative explained that in electoral matters as in other areas, the safeguarding of human lives might require the sacrificing of less important property, although it must not be used as a pretext for excessive restriction of freedoms. The key is proportionality. Any restriction to ensure timely elections should be balanced against the limitation of the right to free elections due to the emergency situation and conversely, the postponement of elections should be balanced against the risk of holding them during the emergency situation.

As to whether it is acceptable to amend electoral legislation in case of emergency, the Venice Commission representative explained the principle of stability according to which changes to the basic rules of the game must take place well before the elections (at least one year), and the rules should not be changed during the course of the elections. However, late amendments to electoral legislation, which would not be appropriate in an ordinary situation, are justified in an emergency situation if they are necessary for elections in line with international standards. These changes must not lead to excessive restrictions on the right to free elections. Their adoption after broad debate and consensus is a guarantee against such abuses and for trust in the electoral process and its legitimacy. In addition, there should be judicial review by an independent and impartial national tribunal.

According to the Venice Commission, specific rules on the postponement of elections should not be adopted by the executive or by a simple majority in parliament, but should be laid down in the constitution or an organic law. The Venice Commission representative explained that these decisions, and all decisions affecting these extraordinary electoral processes, must be adopted in a transparent and, where possible, consensual manner, taking

full account of the exact circumstances (for an epidemic: health information, country capacity, levels of disease expansion, etc.). They must be subject to independent supervision, preferably before a court.

A representative of the **Office for Democratic Institutions and Human Rights (ODIHR)** of the Organization for Security and Co-operation in Europe (OSCE) intervened on high election standards and election observation during pandemics. OSCE/ODIHR representative stressed that the Covid pandemic had a significant impact on election observation but election observation remains possible despite limitations due to, for instance, social distance obligations. OSCE/ODIHR has observed all 33 elections in participating states since the start of the Covid pandemic in a manner that ensures protection of officials, citizens and observers. This observation aimed to analyse the measures taken by states in the context of the Covid pandemic, including a critical assessment of proportionality in all aspects of the electoral process. ODIHR has observed the introduction of specific voting protocols (obligations to wear masks, temperature checks, etc.) and new voting methodologies to ensure the safety of voters (such as postal or mobile voting).

OSCE/ODIHR representative expressed their desire to engage further with the network to present its findings and recommendations and address potential issues with the Member States.

**FR, FI, CZ, DE and RO** explained the steps taken in the organization of elections since the pandemic started, including to ensure that quarantined citizens can exercise their right to vote. FR explained that for its presidential and parliamentary elections in 2022, it aims to ensure legal security and safety of voters and candidates and of the polling stations staff. A health protocol has been developed with the government and the French Scientific Council. FI had two elections during the Covid pandemic, in 2021 and 2022, which required a lot of organization and communication among different actors. For quarantined voters, FI organised outdoors voting, which required more staff at polling stations. CZ explained that, for people in quarantine, they set up drive through voting stations in each district and a special mobile voting machine. DE allows for postal voting, which increased during the Covid pandemic. RO took several steps to ensure elections process during pandemic: postal voting and increased number of polling stations abroad.

### **3. Council of Europe on intergovernmental standards in the field of e-voting. Discussion on practices in e-voting and electronic democratic participation.**

A representative of the Council of Europe presented intergovernmental standards in the field of e-voting. As electoral turnout is reducing in Europe, e-voting brings a new dimension as it may facilitate voting for some citizens. However, there is a clear link between e-voting and risks and concerns about fraud. Traditional ballot boxes as transparent and open in front of observers, while many technologies are not so easy to observe. This is why the Council of Europe has developed international standards in the field of e-voting in the form of a Recommendation accompanied by guidelines for its implementation and an explanatory memorandum.

The Council of Europe representative explained that there are four fundamental principles for elections to be free and fair that are particularly related to e-voting: universal, equal, free and secret suffrage. As to universal suffrage: the electronic system needs to be easy to understand and in all cases additional to the traditional ones. As to equal suffrage, information should be presented to voters through various channels and the system should make sure that voters can only vote once (through authentication mechanisms). As to free

suffrage, the electronic systems should not affect intention of vote. As to secret suffrage, the systems should process and store only necessary information and only authorised people should access that information. States should be accountable for the systems in place and audit should be conducted.

The Council of Europe representative explained that the main obstacles for developing more e-voting options are generally the absence of legal basis and/or political will as well as cybersecurity and security concerns.

RO inquired about the possibility of EU-wide regulation on e-voting and certification mechanisms.

**BE** explained that it has used e-voting machines since 1991, which has many advantages including that it allows for precision of the results as it avoids human mistakes, as long as the process is well organised. The main inconvenience would be the financial and human investment to make sure everything works correctly.

**SE** intervened to explain that in SE there is not political will to introduce e-voting as the current system is considered to be robust and easy to track after elections take place. The main concern regarding e-voting is trust and traceability of the results in the event of an audit. The SE electoral authority uses electronic equipment such as digital registration and presentation of electoral results, which is considered to be critical infrastructure.

**EE** has been using e-voting since 2005. They do not rely on internet voting as primary means but it is one possibility. For the last couple of years over 40% of voters used internet voting, which has made it the most popular voting method in EE. As a result, voting participation has not changed, but the participation of young voters has increased. E-voting has a bit impact for voters from abroad (90% of EE votes from abroad are via internet). Financing technology can be a disadvantage. EE system is set up in a way that allow for auditing and recounting, and there are safeguards to verify results by third parties.

**AT** explained that there is no e-voting but that AT citizens could support parliamentary citizens' initiatives online since 2018. In contrast to internet voting, the decisions are not secret but linked to the person in order to avoid multiple support. Qualified and authenticated electronic signature is required. If a citizen cannot participate online he/she can go to the town hall and sign in front of an official. All signatures are checked and examined. Democratic instruments are now widely used and their electronic configuration helps. AT representative supports the definition of e-voting considered by the Council of Europe and believes that such definition should not be enlarged as that could be an obstacle to tackling the issue adequately. AT also pointed out that the Council of Europe prepared Guidelines for the use of ICT in Elections (in addition to e-voting) in 2021 and that they could serve as a useful reference for further discussions.

**DE** does not envisage the introduction of e-voting for EP elections as under the jurisprudence of the Federal Constitutional Court all steps in the electoral procedure must be understandable to every citizen and not every citizen would be able to understand and reconstruct an election result based on an electronic procedure.

**SE** would like to exchange experiences and work to build on transparency and credibility around elections results.

**LT** mentioned the possibility of its citizens to support online the political parties' participation in elections. LT is conducting a feasibility study on e-voting with the view to

potentially introduce e-voting systems in the future. It also showed that e-voting is used by some political parties in their internal elections.

COM will prepare a compendium of e-voting practices based on the guidance of the Council of Europe and in close cooperation with the Member States. An operational sub-group on e-voting will be created to that effect.

#### **4. Election accessibility for persons with disabilities (chaired by Finnish experts).**

COM briefly presented its Strategy for the Rights of Persons with Disabilities 2021-2030 to ensure their full participation in society, on an equal basis with others in the EU.

**FI** presented their work in ensuring that persons with disabilities can fully exercise their right to vote. This includes introducing polling assistants at polling stations and adapting ballot boxes to help people with limited sight or reduced movement, as well as allowing for outdoors voting when voting stations do not allow access to people using wheelchairs, among other measures. FI explained that monitoring the implementation of any measures is key, as well as active collaboration with civil society. FI also offers an elections helpline and WhatsApp service for deaf voters. All information on elections in FI is also explained in 15 minority languages.

SI, LT, AUT, SE and EE intervened to present measures taken in their respective countries to ensure full participation of persons with disabilities in elections. **SI** explained that voters with disabilities have many options to vote in SI: at polling stations (which are accessible for people with disabilities by law); by post (they need to notify at least 5 days before election day); with the assistance of another person in submitting or filling the ballot paper; and at home. One week before voting day the state electoral commission sends to the permanent address of each voter the voting date and assigned polling station. All information is also available in a state electoral website and toll free phone number. In **LT** and **AT** people with disabilities can vote at home or at polling stations (which are accessible for people with disabilities by law). LT and AT offer easy-to-read booklets and websites on elections as well as templates for blind or visually impaired voters. **SE** offers many ways to exercise the right to vote for different groups, including in sign and Braille. **EE** works closely with civil society organisations to ensure that people with disabilities can exercise their right to vote. EE plans to introduce easy-to-read materials next year.

#### **5. Closing remarks**

Director Mozoova closed the meeting and thanked all the participants and speakers for joining. The next meeting of the network is planned for the second half of March 2022.