



Parliamentary Electoral dialogue: Challenges and Needs for Holding  
Out-of-Country Voting for Ukraine's Post-War Elections

# The international standards and good practices

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# International standards

International and regional documents, UN declaration, conventions on human rights and other legal documents offer important standards and guidance on the democratic conduct of elections do not contain explicit obligations for states to enfranchise their citizens abroad

However, there appears to be a trend in international legislative practice and in good practice documents towards granting out of country voting

The OCV must meet the same standards of transparency, security, secrecy, integrity and genuineness as the in-country process

# Relevant international and European instruments

- ❖ The Universal Declaration of Human rights
- ❖ The International Convention on Civil and Political Rights
- ❖ The American Declaration of the Rights and Duties of Man
- ❖ The American Convention on Human Rights
- ❖ The Charter of Fundamental Rights of the European Union
- ❖ The European Convention on Human Rights



# Relevant commitments and legal opinions

- ❖ The 1990 Document of the Copenhagen meeting of the CSCS p. 5-8
- ❖ Interpretative documents such as the ICPR's General Comment 25
- ❖ COE Parliamentary Assembly and Committee of Ministers resolutions, recommendations, declarations, including implication for the right to vote
- ❖ European Court of Human Rights judgments
- ❖ Venice Commission's opinions, reports and guidelines

# European Commission for Democracy through Law (Venice Commission)

- ❖ Adopted Guidelines on Elections at its 51. Plenary session on 5-6 July 2002 that was subsequently included in the Code of Good Practice in Electoral Matters
- ❖ Endorsed two reports on the Abolition of Restriction on the Right to vote in General elections on its 61 Plenary Session (CDL-AD( 2005) 012 and CDL-AD( 2005) 011
- ❖ A Report on Electoral Law and Electoral Administration in Europe, adopted by the VC in June 2006 (CDL-AD( 2006) 018
- ❖ Compilation of Venice Commission Opinions and Reports concerning digital technologies in the electoral process, CLD-PI(2018)011
- ❖ A Report on Out of Country Voting CDL-AD ( 2011) 022, adopted by the VC at its 87th plenary session, June 17-18, 2011



# Venice Commission's Code of Good Practice in Electoral Matters

Universal suffrage means in principle that all human beings have the right to vote and to stand for election. This right may, however, and indeed should, be subject to certain conditions..“ (conditions of age, nationality, residence and other grounds of the right to vote)

... „The right to vote and to be elected may be accorded to citizens residing abroad“ without making it a requirement to grant such a right

International obligations related to elections apply for OCV, as much as they do for in-country voting

# Good practice and OCV implementation

- ❖ Eligibility requirements (citizenship, age, residency period)
- ❖ Identification (access to documentation)
- ❖ Registration (relevant deadlines)
- ❖ Types of elections (parliamentary, local)
- ❖ Voting modalities



# Voting modalities/ alternatives/ challenges, risks

Measures to allow citizens who are temporarily abroad to vote have been implemented in a number of states, but modalities vary as there are no explicit standards.

There are several voting alternatives and practical considerations, but every step of the voting process should be open to the scrutiny of political contestants or election observers (VC 1.3.2.x.):

- ❖ In- person voting in embassies/ consulates or at the designated PSs abroad – operational issues( access, security, costs, close locations, transportation, cooperation with host countries)
- ❖ Postal voting (safe and reliable postal service – I 3.2.iii, secrecy, ballot timely printing, ballot distribution, ballot tracing, avoid multiple voting effective remedy)
- ❖ New technologies (timing, funds, secure voter identification, voter education and information, observation)

COE has set intergovernmental standards in the field of e-voting . Rec. CM/ rec( 2017) 5 and the Explanatory memorandum was drafted as an enhancement of REC ( 2004) 11 and deals with the most critical part of election technology: e-voting, which means to cast and count the vote



# Recommendations

- ❖ For any changes to voting methods and procedures it is important to have an outcome of inclusive consultation with all key institutions and stakeholder (preparatory work to be committed well in advance)
- ❖ Legal framework should provide clearly defined conditions for the procedures to take place in domestic legislation to limit EMBs discretion
- ❖ Timely preparation and secure funding
- ❖ The proper maintenance of election register is vital in guaranteeing universal suffrage (permanent voter register and regular updates)
- ❖ Ensure the security and integrity of the election process-prevent influence with ballot material (polling, counting and results compilation)
- ❖ Vote secrecy must be ensured
- ❖ Safeguard against multiple voting and undue influence. High risk of election fraud when counting takes place outside the PS
- ❖ The transport might be also supervised
- ❖ PS staff well trained and have to act impartially (voters must be protected from intimidation and PS staff influence)
- ❖ Observers should be able to track the counting through the various levels up to final consolidation of results
- ❖ Breaches of the election law must be subject to complaints so the law can be effectively implemented

# Final declaration of PACE, Bern May 9-10, 2023

- ❖ EMBs are called to conduct occasional systematic review of the rules and procedures for the elections, focusing on resilience, agility and adaptability.
- ❖ Consultative process should involve all affected stakeholders.
- ❖ Election observation is considered an integral part of the transparency of electoral processes (governments are called to extend invitation to all international organizations)
- ❖ With reference to natural disasters that distort elections states are encourage to modify their electoral legislation to provide for holding elections during emergencies, as well as clear criteria for postponing the elections.



# Final declaration of PACE, Bern, May 9-10, 2023

- ❖ EMBs to train election officials in disaster preparedness and response and to have contingency plans in place in times of crisis
- ❖ ICTs and AI are transforming the elections, and thus importance of the CoE's Budapest Convention on Cybercrime and its Protocols are recalled as crucial for securing electoral process.
- ❖ Benefits of ICT are recognized but EMBs are called to upgrade their capacity to fight undue interference and ensure free and fair elections.
- ❖ States are invited to strengthen cyber security and to protect critical infrastructure, essential for the conduct of elections, internet connected systems, network, software and data.



Thank you for your attention!

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