International IDEA

SPECIAL VOTING ARRANGEMENTS

The International IDEA Handbook

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The International IDEA Handbook

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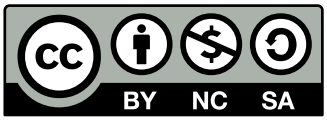

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Preface

Special voting arrangements (SVAs) are not new. Initiatives to make elections more inclusive and accessible have existed since the earliest days of recognized democratic elections, and a steadily increasing number of nations employ a range of alternatives to conventional voting. The profound impact of the global Covid-19 pandemic accelerated the adoption of SVAs with rapidly introduced or expanded adaptations of procedures to ensure social distancing during voting. SVAs such as postal, advance and mobile voting have gained prominence in electoral management.

SVAs can make electoral participation more convenient for many voters, such as those who are away from their community on election day and those who have difficulty reaching a polling station or voting conventionally. Those who are incarcerated, hospitalized or on official duty away from polling places on election day rely on SVAs where such arrangements are available. Beyond these special categories, SVAs such as advance voting can broadly support political participation by making voting more convenient.

Voting reforms have political consequences. It is not always easy to garner political will or timely legislation for changes to the mechanics of elections. Interest in adopting or discrediting SVAs may be guided by motives other than inclusion and access. Even when SVAs are adopted because of laudable objectives, doing so can present unique challenges to lawmakers, election officials, political parties, candidates and voters. When SVAs are introduced or reviewed, political actors may seek to steer their design in a way that may bring them political advantage. When SVAs are forced onto the agenda through an emergency such as a pandemic or a natural disaster, time pressure is likely to produce solutions with rough edges. At any time, SVAs may be confusing to some voters unless accompanied by robust voter education. Some SVAs may present integrity challenges, creating opportunities for voter intimidation, voter inducement or fraud schemes. The legitimacy of even well-designed SVAs can be the target of unscrupulous political actors. Finally, SVAs can also create significant burdens for election administrators and workers, who must ensure that the special procedures required by an SVA are executed lawfully and competently.

The point of SVAs is to increase access to voting. However, there is a risk that this could be done disproportionally or unfairly. This demands that the designers and proponents of SVAs pay attention to how the methods chosen might benefit one group over another and how access may differ across communities. The guiding principle for lawmakers and other

leaders is to ensure that SVAs provide voting access to all without discrimination and that all aspects of an SVA process are conducted in a manner that builds or maintains public trust.

This Handbook seeks to present policy recommendations and good practices to help ensure that SVAs are designed and implemented to ensure electoral integrity. It also seeks to disentangle and dispel some of the myths that develop around SVAs—perhaps unavoidably considering SVAs affect who can vote and how they can vote. The conduct and context of elections are forever changing and developing, and it is rarely easy to respond to the resulting challenges. Both policymakers and administrators will face difficult choices and hurdles. This Handbook will help to clarify and address them.

Kevin Casas-Zamora
Secretary-General

Abbreviations

CoE	Council of Europe
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil society organization
E2E	End-to-end
ECtHR	European Court of Human Rights
EMB	Electoral management body
EOM	Election Observation Mission
ICCPR	International Covenant on Civil and Political Rights
ID	Identification
IDP	Internally displaced person
INE	Instituto Nacional Electoral [National Electoral Institute], Mexico
LGBTQIA+	Lesbian, gay, bisexual, transgender, queer, intersex and asexual people
MOVE	Military and Overseas Voter Empowerment Act
NEC	National Election Commission
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organisation for Economic Co-operation and Development
OSCE	Organization for Security and Co-operation in Europe
OTP	One-time password
PAFFREL	People's Actions for Free and Fair Elections
SVA	Special voting arrangement
UDHR	Universal Declaration of Human Rights
UOCAVA	Uniformed and Overseas Citizens Absentee Voting Act

INTRODUCTION

In this Handbook, the term 'special voting arrangements' (SVAs) refers to all forms of voting that are not conventional. Conventional voting has four characteristics:

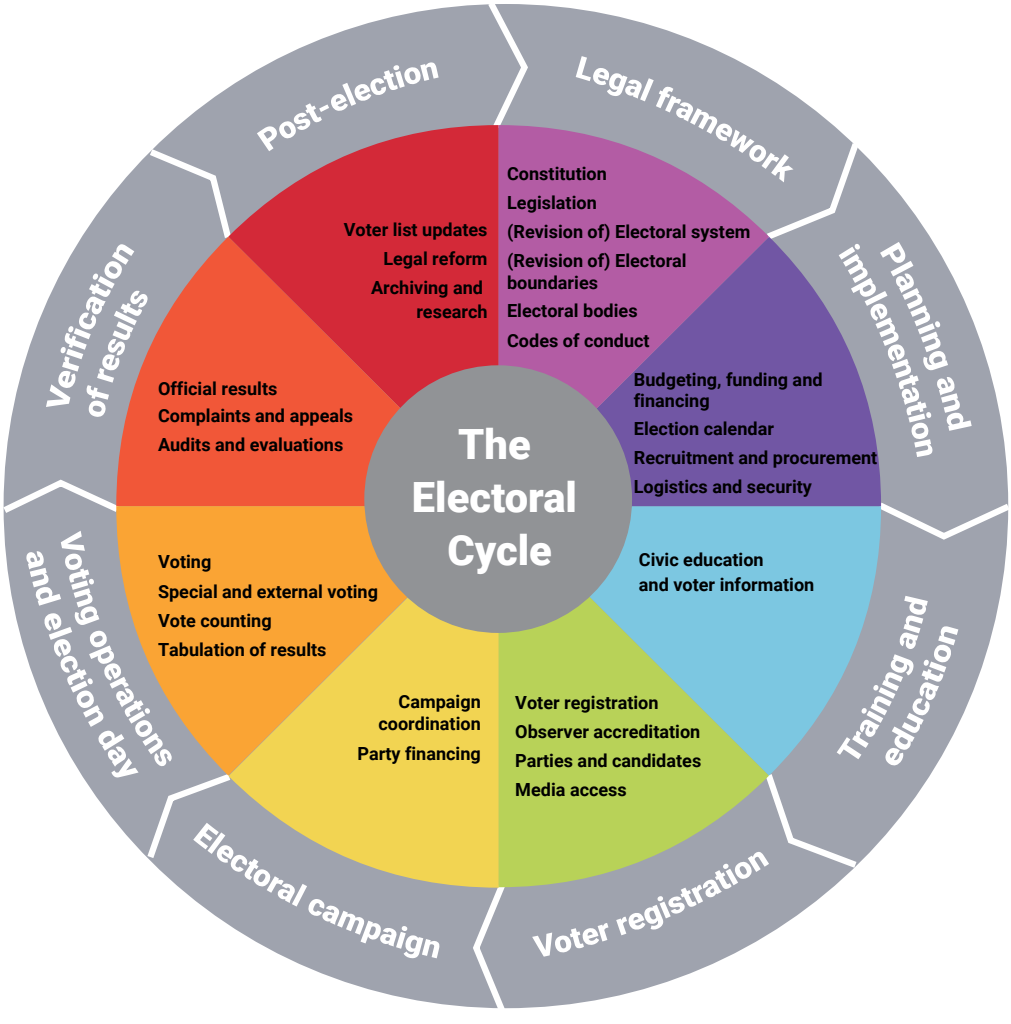
1. It is conducted independently by the voter.
2. It takes place in a polling station assigned to the voter in the voter's constituency.
3. It takes place on election day.
4. No further ballot validation measures are required after the vote has been cast and before it is included in the vote count.

In contrast, SVAs encompass the full range of voting mechanisms that fall outside one or more of the characteristics of conventional voting, such as voting outside the polling station, before election day, or using a voting intermediary. Deviation from conventional voting by adding new voting methods may result in costs, administrative and legal complications, and risks to voting integrity. Despite these costs and risks, the long-term move towards increased worldwide use of SVAs—with their positive benefits in promoting participation and inclusion—appears real, irreversible and likely to continue.

SVAs promote accessibility for voters who have the right, but not the opportunity, to register to vote and cast a ballot conventionally, and can increase the convenience of voting.

SVAs promote accessibility for voters who have the right, but not the opportunity, to register to vote and cast a ballot conventionally, and, more broadly, can increase the convenience of voting. SVAs can therefore contribute to greater voter engagement, which is a goal of all democracies and an indicator of the quality of their political systems. Moreover, in times of crisis, either due to a sudden event or a longer-term emergency such as the Covid-19 pandemic, an SVA, if

Figure I.1. **The electoral cycle**



administered with adequate integrity provisions, can help maintain public confidence in the institutions of democracy—particularly the electoral process.

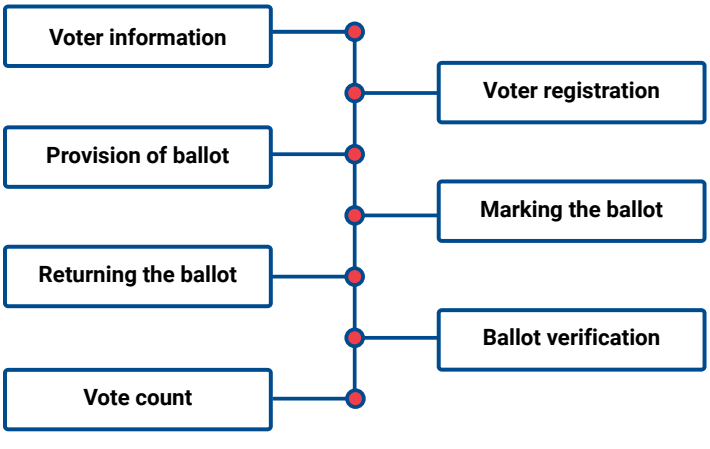
This Handbook is designed as a toolkit for considering, selecting and implementing SVAs. It provides entry points for understanding national practices on SVA-related issues throughout the electoral

cycle. It targets those involved in implementing and monitoring SVAs (e.g. electoral management bodies (EMBs), legislators, civil society organizations (CSOs), political parties) and anyone interested in how SVAs are developed, conducted and experienced.

Designing, implementing and refining SVAs impacts on all phases of the electoral cycle (see Figure I.1), including pre-electoral, electoral and post-electoral periods. To take the example of mobile voting for incarcerated voters, important pre-election activities include developing legal procedures, registering voters in places of detention, and offering practical training of election workers on what is required when conducting mobile voting in prisons. Making sure that mobile votes remain secret and that SVA ballots are securely stored and transported are electoral period activities; reviewing what worked well and what did not is a significant task for the post-electoral period.

With this perspective in mind, this Handbook provides comprehensive guidance on how and when to use SVAs. It considers the types of SVAs, the groups commonly served by each type of SVA, and their actual implementation throughout the whole electoral process.

Figure I.2. **The voting process into which SVA conduct fits**



Source: Developed by the authors.

There are many examples where the electoral process uses a 'pure' form of SVA—for example, the use of postal voting where the whole process (voter information, registration, provision of ballot and returning of ballot) is conducted by mail. In other cases, a combination of SVAs is used—for example in India, where a voter who is illiterate, blind or infirm needs the assistance of a local official to complete their postal vote and sign their declaration of identity. In Egypt, for example, registration and ballots for voting from abroad are sent online/via email, but the voter then needs to print the ballot and return it by mail. There are also many hybrid versions where the use of one or more SVAs stands alongside elements of conventional voting, such as in Austria, where the same 'voting card' system applies to conventional voting, postal voting, mobile voting, and absentee/out-of-constituency voting. While the following chapters will provide a separate explanation for each kind of SVA, appropriate guidance will also exist to cover such flexible approaches.

Whether administered in a 'pure' form or through a combination of methods, all SVAs involve unique processes, election-related equipment and material, and appropriate infrastructure. They also require electoral staff with specific skills to administer these steps with competence and integrity. In particular, attention has to be paid to how to provide the ballot to the voter (e.g. in person at a polling site, in person to a voter's home, hospital, prison or other sites, by mail, online), how to mark it (e.g. paper, voting machine or electronically), how to return the ballot to the EMB, and how it will be verified. The storage and sorting of ballots, their counting, and transparency measures accompanying all these processes also deserve attention.

This Handbook begins with a contextual overview of global SVA usage in Chapter 1, which draws on International IDEA data sources. Chapter 2 continues by carefully defining the concept of SVA and clarifying the distinction between conventional voting and SVAs. Target groups best served by SVAs are highlighted in Chapter 3, which emphasizes the applicable international standards and the appropriate SVAs used in each case.

Chapter 4 is devoted to the legal framework that governs the implementation of SVAs. It covers the fundamental principles of

elections and voting arrangements in international legal instruments and explores how they relate to SVAs. Examples of various issues that may give rise to disputes are also provided, illustrated by court decisions at international and national levels. The chapter ends with a few practical points related to legal frameworks on SVAs.

After clarifying the main concepts, Chapter 5 undertakes a detailed review of different SVAs—11 in total. For clarity and consistency, the text uses the same structure to analyse all 11 SVAs: the concept, policy issues, administration of the SVA, voter registration and identification, ballot integrity, voting and counting, and observing. Case examples from different countries accompany the study of each type of SVA.

Following this review of different SVAs, the next two chapters provide a consolidated analysis of common SVA usage patterns. While Chapter 6 elaborates on policy issues connected to SVA introduction (for example trust, risk assessment, turnout, cost), Chapter 7 focuses on SVA implementation, specifically the stages of planning and administration, voter registration, voting, counting, auditing and observing. Finally, the Handbook's Conclusions present recommendations.

Chapter 1

USE OF SPECIAL VOTING ARRANGEMENTS AROUND THE WORLD

This section contains a snapshot of International IDEA's online database on some of the key SVAs, namely: in-country postal voting, early voting, mobile ballot box and proxy voting (International IDEA n.d.a, n.d.b, n.d.c, n.d.d, n.d.e). The database will be updated on a continuous basis. The SVA Data Explorer (International IDEA n.d.f) allows for interactive browsing of all SVA-related data. From the overview presented here it becomes clear how widespread SVAs are and how important they have become for electoral process.

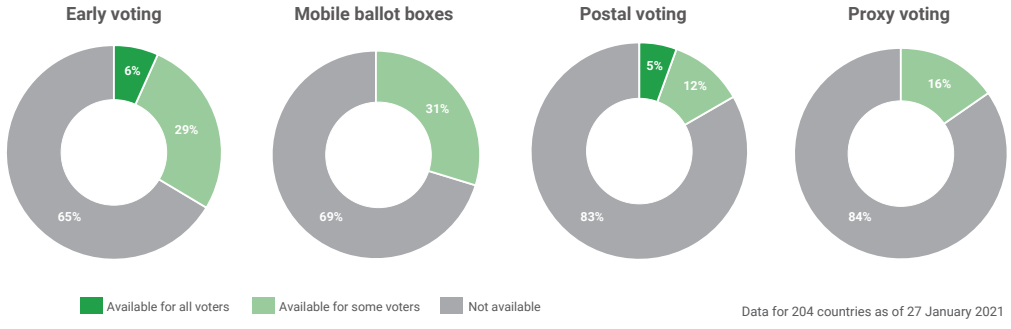
1.1. **GLOBAL OVERVIEW**

According to International IDEA's database on special voting arrangements (Figure 1.1), early voting is the SVA most frequently chosen by countries around the world, followed by mobile ballot boxes, postal voting and proxy voting.

When the data is divided by continents (Figure 1.2) there is a noticeable variation in the use of different types of SVAs across the continents. In Asia, Europe and Oceania, SVAs are comparatively more common than in Africa and the Americas. Mobile ballot boxes emerge as the most common SVA across Asia and Europe, while early voting is most frequently used in Africa, the Americas and Oceania.

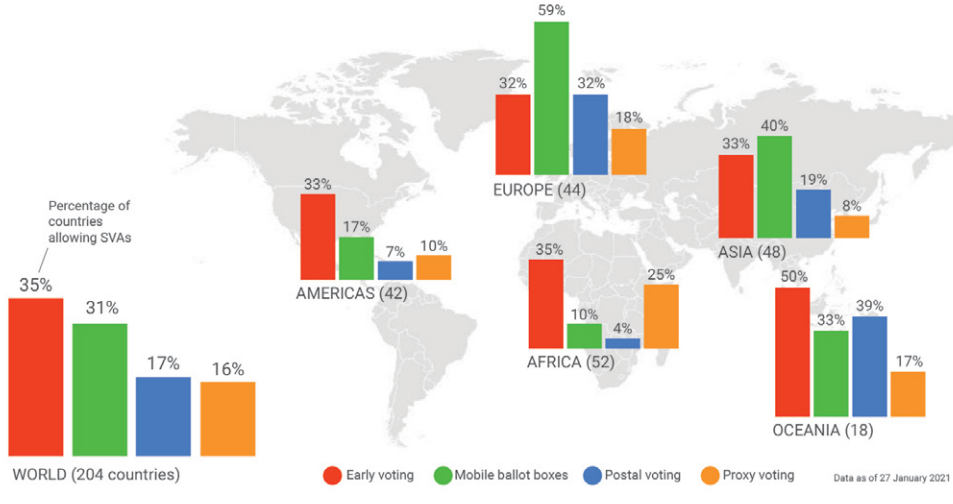
As can be seen in Figure 1.3, globally one-third of countries do not offer any SVAs for in-country voters. Europe has the lowest percentage of countries without SVAs, followed by Oceania and Asia.

Figure 1.1. **Usage of different SVAs for in-country voting across the globe**



Source: Developed by the authors.

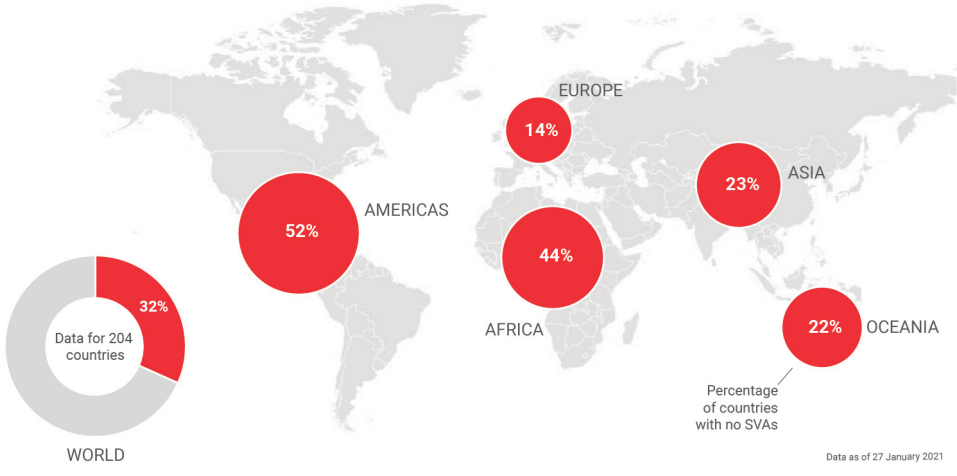
Figure 1.2. **Use of different types of SVAs for in-country voters around the world**



Source: Developed by the authors.

In Africa, the proportion of countries with no SVAs is significantly higher at 44 per cent. The proportion of countries with no SVAs is highest in the Americas with 52 per cent. Of 20 Latin American

Figure 1.3. **Countries with no SVAs for in-country voters**



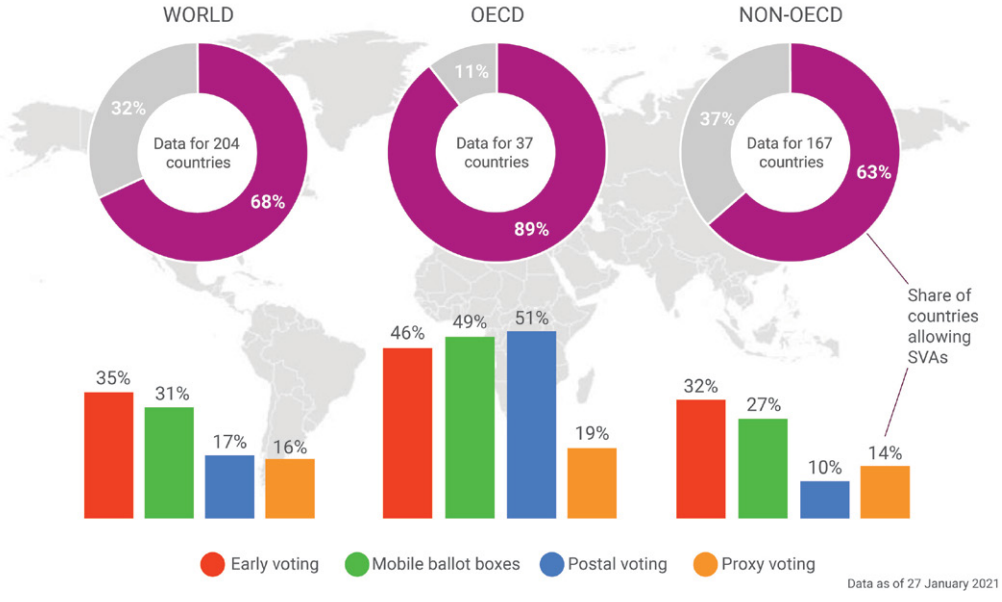
Source: Developed by the authors.

countries, 75 per cent do not offer any of the four SVAs covered by this data set.[1]

Another interesting angle is comparing Organisation for Economic Co-operation and Development (OECD) data with non-OECD countries (Figure 1.4). Most OECD member states are high-income countries with developed economies and institutions. Therefore, they may possess resources and capabilities that make it easier to adopt and implement the additional processes required by a decision to introduce an SVA. The non-OECD group has three times more countries which do not use any SVA. Postal voting is the least used SVA in the non-OECD group—which is probably a simple reflection of the variation in the capacity of postal services worldwide.

1 Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela.

Figure 1.4. **In-country SVAs in OECD vs. non-OECD countries**



Note: OECD = Organisation for Economic Co-operation and Development.
Source: Developed by the authors.

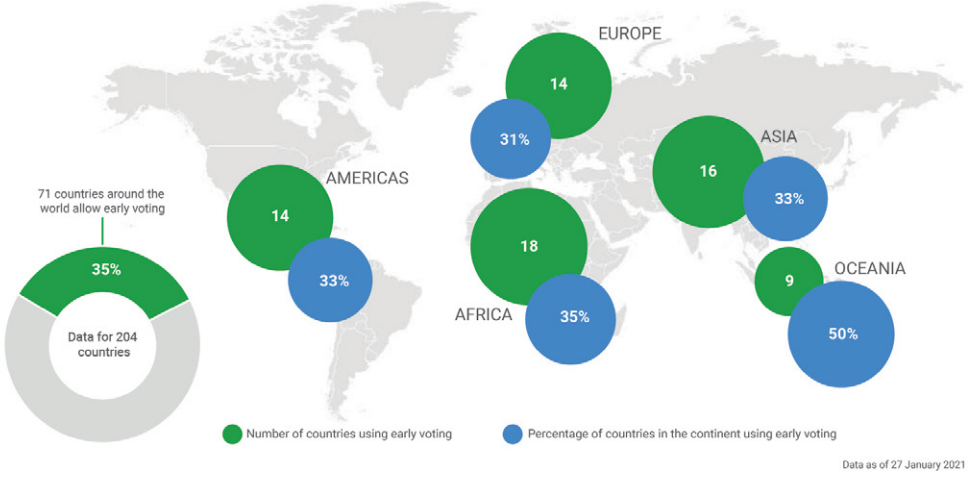
The use of early voting is rather evenly spread out across the globe.

1.2. REGIONAL OVERVIEW

According to International IDEA's database on SVAs (Figure 1.5), the use of early voting is rather evenly spread out across the globe. Even if only nine countries are using early voting in Oceania, this represents half of the countries in the continent. This means this type of SVA is more common in Oceania compared with other continents. In total, 18 countries are using early voting in Africa. The percentage of countries using early voting in Africa is slightly higher than in the Americas, Asia or Europe.

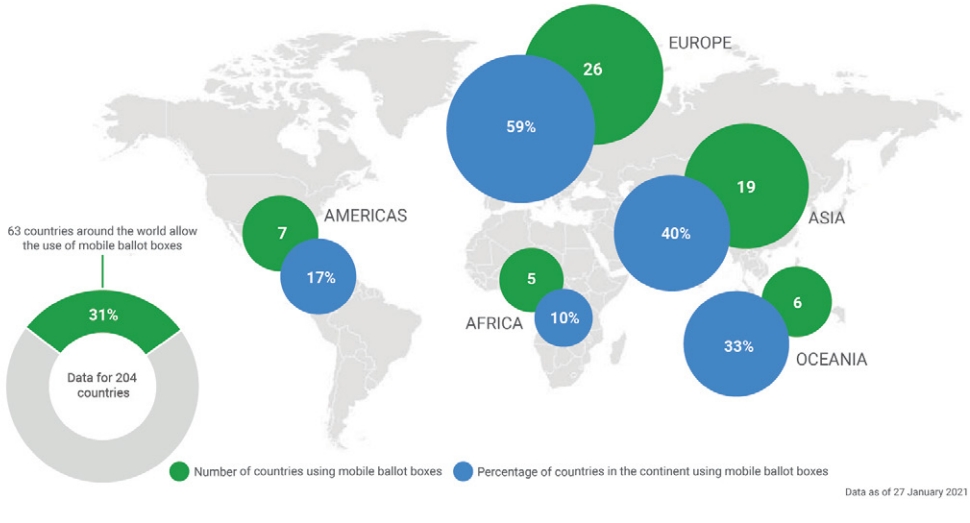
Figure 1.6 shows that mobile ballot boxes are mostly used in Europe and Asia, and to a lesser extent in Oceania. The use of this type of SVA is rather limited in the Americas and Africa.

Figure 1.5. **Early voting by region**



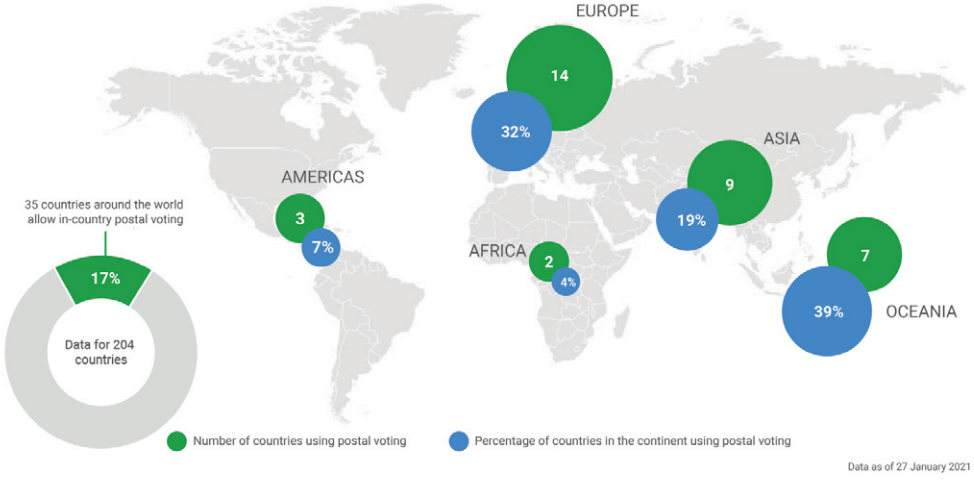
Source: Developed by the authors.

Figure 1.6. **Mobile ballot box voting by region**



Source: Developed by the authors.

Figure 1.7. **In-country postal voting by region**

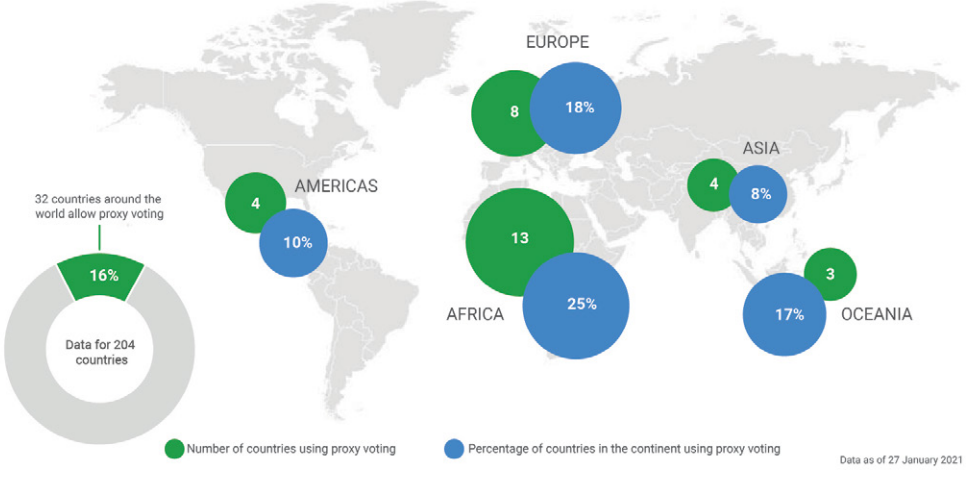


Source: Developed by the authors.

As Figure 1.7 shows, in-country postal voting is rarely used in the Americas and Africa. This type of SVA is more common in Asia, Europe and Oceania. Oceania has the highest proportion of countries using postal voting.

As can be seen in Figure 1.8, Africa leads the world when it comes to the use of in-country proxy voting. Europe and Oceania have lower levels of use of this type of SVA. In the Americas and Asia, the use of proxy voting is very limited.

Figure 1.8. **In-country proxy voting by region**



Source: Developed by the authors.

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Chapter 2

THE CONCEPT OF SPECIAL VOTING ARRANGEMENTS

2.1. CONVENTIONAL VOTING

Voting procedures have been developed and refined through elections worldwide over many years. This Handbook uses the term 'conventional voting' to describe the core principles and practices that have become established. The definition of conventional voting encompasses four elements:

1. The act of voting is conducted independently by the voter.
2. The act of voting takes place in a polling station within the voter's constituency that is assigned to the voter.
3. The act of voting takes place on election day.
4. No further ballot validation measures are required after the vote has been cast and before it is counted.

Good practice in conventional voting entails, among other features: a controlled environment managed by polling staff, with party agents and election observers present; booths or screens used for casting the vote in secret; and ballot boxes that have been sealed after public inspection at the beginning of the voting process.

The first element of conventional voting means that the voter acts autonomously when making their choice of party or candidates, marking the ballot and casting the vote. No third person is involved. There can be material support, but no human assistance.

Voter autonomy is compatible with using any kind of assistive tools that may be necessary to perform or facilitate voting, such as pencils, stamps or similar devices specified in electoral procedures. Some countries determine the colour (for example, red in the Netherlands) or the symbol (for example, a cross in Poland) to be used when marking the ballot, or provide specific pens or pencils to the voters. Such provisions are fully compatible with the voter casting their vote autonomously.

The same applies to other more targeted tools intended to facilitate the task of voting for certain groups of people, particularly voters with disabilities. This category of tools includes magnifiers and Braille ballot jackets. However, the procedures remain in the realm of conventional voting as long as voters retain their autonomy when voting with the aid of specific devices (but not persons). For example, the support provided by magnifiers is no different from that provided by voters' corrective spectacles, without which many voters would not be able to vote either.

The automatic-marking devices that were used in Slovenia to facilitate voting for people with visual impairments provide another example. These voting machines helped ensure that the voter marks the ballot autonomously. They are automatic, but their role is similar to magnifiers.

The second element of conventional voting is a polling station, a controlled environment assigned to the voter beforehand and within their constituency. A 'controlled environment' refers to official voting premises under the control of polling officials. Both security forces and logistic staff may also be on duty to protect and facilitate voting operations. The presence of party agents and election observers would be expected in line with international electoral standards (United Nations Human Rights Committee 1996: para. 20).

Some flexibility exists when determining the layout of polling stations. However, conventional voting refers to controlled environments during election day only, the most common setting for voting. Controlled premises of other types (e.g. city halls) and staff working under different supervision patterns (e.g. municipal clerks)

may exist for purposes related to elections, but normally not to conduct the polling itself.

Arrangements may exist under which EMBs allow voters to choose among different polling stations where to cast their vote. Thanks to the advantages of having voter registers that are online and updated live, some countries—for example, Lithuania (OSCE/ODIHR 2021: 8)—make the formal assignment of voters to polling stations more flexible, thereby further facilitating access to voting and potentially reducing some logistic constraints, such as queues.

The third element of conventional voting is that it takes place on election day. Typically, electoral laws determine that voting operations will take place on one designated day, or sometimes on more than one designated day, as for example in India and Italy. Electoral authorities set up polling stations in such a way that the whole territory is covered, thereby reducing to the maximum possible extent the distances between voting premises and voters' place of residence. No specific application is required to allow voting through this general voting mechanism. Election day(s) are a key milestone of the electoral calendar, which includes very detailed and specific tasks to be performed within tight deadlines from the moment when the election is called until the publication of final official results, once any complaints have been adjudicated.

However, there may be other days on which votes are also cast, and such alternative dates are often connected to SVAs. Out-of-country polling stations or postal voting, for instance, require clear deadlines so that the relevant ballots reach the counting centres on time: the dates for voting through these mechanisms need to be established well in advance and will usually differ from those for conventional voting. While these voting arrangements often take place nationwide under controlled environments with fixed deadlines, they are not considered as conventional voting.

The fourth and final element of conventional voting is that no further validation measures are required after the ballot is cast. Typically, the ballot is inserted into a sealed ballot box. When the box is opened and emptied later, the ballot will be treated as neutral information and will be counted together with the other votes. (This element does not

always strictly apply in systems that record the number of the ballot paper on a corresponding counterfoil as a security measure against ballot misuse (ACE Project 2010).)

By contrast, postal voting and Internet voting are based on different assumptions. At the time the voter hands over the ballot, it remains linked to them. The double envelope or cryptographic schemes discussed in more detail in Chapter 5 explain how such mechanisms are made compatible with the principles of secrecy and freedom, but these mechanisms entail further validation measures. Electoral authorities have to verify the voter's credentials in order to avoid double voting or impersonation.

Debate in many countries over many years has gradually led to the realization that participation in elections conducted solely by conventional voting procedures may not be easy or even possible for some groups of voters.

2.2. **WHAT ARE SVAS?**

Conventional voting, when well conducted, is often regarded as providing the 'gold standard' for electoral integrity and transparency. However, debate in many countries over many years has gradually led to the realization that participation in elections conducted solely by conventional voting procedures may not be easy or even possible for some groups of voters. More recently, some countries have begun to question whether conventional voting is in fact the best mechanism for encouraging and maximizing electoral participation. The argument is made that a very formal electoral process that maintains de facto disenfranchisements is likely to lead to a gradual erosion of political legitimacy, undermining the whole democratic system.

The development of electoral practice has taken place over a long period of time. The process has developed in response to experiences in conducting elections, to the consequences of new electoral institutions, to developments in technology, and to changes and significant events in wider society—the Covid-19 global pandemic being the latest example. It is frequently driven not only by the desire to improve the conduct and the legitimacy of elections, but by open or hidden calculations of potential political advantage.

When modified voting procedures are introduced that depart from conventional voting, they are by definition special: they are thus

referred to as 'special voting arrangements'. The words convey what such voting mechanisms are intended to provide.

In their earliest modern forms, the primary purpose of SVAs was often to provide practical responses to issues that arose in the structure and administration of the new procedures of contested democratic elections. As solutions to these were found and bedded down over time, the focus moved to the need to facilitate and promote the electoral participation of specific groups who were otherwise excluded from, or disadvantaged in access to, voting. One of the main concerns leading to the introduction and extension of SVAs was how accessible voting procedures were, and how this impacted on the principle of universal suffrage.

Recent discussions often emphasize the need to promote and encourage participation by every person who is registered to vote. A growing number of countries have adopted SVAs designed to be used by any voter on request, with or without a valid reason. Although this trend began before the emergence of the Covid-19 pandemic in 2020, the global public health crisis caused many democratic states around the world to consider expanding existing SVAs or developing new SVAs to ensure that all voters can vote safely, without fear of adverse health risks.

All SVAs involve mechanisms that depart from the pattern of conventional voting. In doing so, each SVA involves a level of risk, and therefore a trade-off. The question is whether the risk attached to any proposed changes to voting procedures is justified because they will provide benefits in protecting or improving the integrity or legitimacy of the vote, universality of the right to vote, or access to the vote when compared with what can be achieved by conventional voting. The trade-off should be evaluated in the context that modifications to an already consolidated and sure setting for voting are justifiable if they prove to be necessary and appropriate to achieve legitimate goals. The potential risk needs to be proportional to the benefits. Each SVA involves compromising the strengths of conventional voting to some degree—which is why the comparison with conventional voting is essential to any discussion on introducing or extending an SVA.

All SVAs involve mechanisms that depart from the pattern of conventional voting. In doing so, each SVA involves a level of risk, and therefore a trade-off.

While this Handbook identifies and classifies 11 different types of SVAs and provides an overview of each, the list of SVAs is not closed. Electoral procedures continue to evolve, and nothing prevents electoral practitioners from continually looking for innovative mechanisms intended to address existing and newly identified shortcomings.

SVAs are sometimes called 'alternative voting measures', 'alternative voting methods', 'alternative voting channels', or 'convenience voting', depending on the specific context or aspect that these terms intend to highlight.

2.3. **THE TERMINOLOGY OF SVAS**

The terminology related to SVAs varies widely between different countries and often between different organizations. SVAs are also sometimes called 'alternative voting measures', 'alternative voting methods', 'alternative voting channels', or 'convenience voting', depending on the specific context or aspect that these terms intend to highlight. Descriptions can often be misleading and there is a great deal of scope for confusion.

Electoral law commonly does not refer to SVAs as such, but rather describes conventional voting procedures and, in addition, any other forms of voting that are to be available to voters.

Additional confusion may arise from the fact that the same voting arrangement is sometimes referred to under different names in different countries, for example 'postal voting' also being called 'by-mail voting'. In other cases, the same term may refer to different concepts. For example, 'absentee voting' is used in some countries to refer to almost all SVAs, and in others only to voting by mail or in a polling station other than the one to which the voter is assigned. 'Tendered ballot' in Namibia refers to voting outside the home precinct. Terms may also overlap: 'out-of-country voting' may include both polling stations abroad, and the use of postal voting by overseas voters.

Throughout this Handbook, an effort is made to maintain consistency in terminology, and important variants are mentioned whenever a particular term is introduced. The different types of SVAs and what they mean are listed in Table 2.1.

Table 2.1. **The different types of SVAs**

Assisted voting	Procedures for voters who cannot cast their ballot autonomously and require the active assistance of another person.
Early voting	Procedures enabling eligible voters to cast their ballots in person in a controlled environment at designated polling sites before election day.
Mobile ballot boxes	Provisions for voters to be visited by polling staff at homes or places of temporary stay (such as healthcare facilities) and given the opportunity to cast ballots into a transportable ballot box. A controlled environment 'travels' to voters, who cast ballots in person.
Multiple voting days	Either provisions for voting at the same polling stations for the same election on more than one day, or provisions for staggered voting in national or jurisdiction-wide elections that are scheduled to take place in different geographic areas on different election days. In either case, these days may be consecutive, but do not have to be.
Polling stations abroad	Establishment of designated, staffed polling stations where voters outside the borders of their country vote in person.
Postal voting	Procedures enabling voters to receive and mark their paper ballots in an uncontrolled environment (such as home) and then send or deliver the filled ballots in a return envelope with their personal details to EMBs for processing and counting.
Provisional ballots and tendered ballots	Procedures enabling a voter whose eligibility is not fully verified to be admitted to cast a ballot that will only be accepted for counting if and when the voter's right to vote is finally confirmed.
Proxy voting	Procedures enabling an eligible voter to appoint another person (the proxy) to cast their vote on their behalf using the same process as the voter would have used to cast it in person.
Remote voting electronically or online	A system that allows voters to cast their ballots remotely via a computer connection in an uncontrolled environment (such as at home or in a hotel).
Special domestic polling stations	Establishment of polling stations within the country for the benefit of a specific group of voters (such as the residents of a hospital, care facility or prison).
Voting outside the home precinct	Procedures enabling a voter to cast their ballot in a polling station within the country that is not the polling station to which the voter is normally assigned according to their registered address.

Table 2.2. **Controlled and uncontrolled environments**

Controlled environment	Official voting premises under the control of polling officials. Both security forces and logistic staff may also be on duty to protect and facilitate voting operations. The presence of party agents and election observers would be expected in line with international electoral standards.
Uncontrolled environment	Any voting location without direct official control and oversight of the act of voting by polling officials, and therefore no formal measures protecting the secrecy of the act of voting or freedom of voter choice.

Table 2.3. **Conditional and unconditional SVAs**

Conditional special voting arrangement	An SVA which is only available to voters who meet a specific criterion defined in the electoral law and regulations. Eligibility may be established automatically by the EMB or may be initiated by an application made by the voter.
Unconditional special voting arrangement	An SVA which is available to any voter, either automatically or on application, without the need to meet or evidence any further criterion or qualification.

2.4. **WHY ARE SVAS NEEDED?**

There are many reasons why voters use SVAs to cast their ballots. People with disabilities require arrangements to be made depending on their specific needs—for example, effective arrangements for people with impaired mobility will be different from those for people with visual impairments. Citizens living abroad or in remote areas will clearly benefit from innovative voting arrangements. Others who may use SVAs include (a) persons with official duties, for instance, due to military, election-related or diplomatic service obligations; (b) refugees; (c) internally displaced persons (IDPs); (d) short-term travellers; (e) migrant workers; (f) inmates of penal institutions; (g) hospitalized and homebound voters; or (h) voters who may have difficulty accessing polling sites for socio-cultural reasons. In more traditional communities, such as nomadic communities or rural communities, conventional voting methods may be insufficient to

ensure participation, requiring more proactive SVAs to reach voters. Each need is different, and each can thus be separately assessed.

In other instances, the voter may be present and willing to vote conventionally, but the act of voting at a polling site on polling day may itself be difficult or impossible, due to threats such as violence, natural disaster, or public health concerns (International IDEA 2022). An electoral legal framework may offer SVAs to make sure people are able to vote despite these crises or as a contingent measure in case a polling station is unable to open—or forced to close early—on election day. Individuals whose names do not appear on a polling station's register of eligible voters may only be able to vote by provisional ballot on election day.

Having in mind this broad range of cases, trade-offs may vary widely, depending on which SVA is considered. In general terms, the universal right to vote, which is the main electoral principle at stake for any voting arrangement in place, will be analysed alongside other electoral principles such as the secrecy of the vote, and its equality (one person, one vote, one value). New factors may need to be taken into consideration as electoral contexts change. For example, the popularity and take-up of early voting in some countries (reaching 68 per cent in New Zealand in 2020) may now raise the question whether the freedom to debate public affairs, campaign for election and advertise political ideas contained in international documents (United Nations Human Rights Committee 1996: para. 25) is substantially adversely impacted when a high proportion of votes have already been cast while electoral debate is still going on. The integrity safeguards of the whole electoral process are an overarching concern that may be affected by SVAs. These issues are explored in depth in Chapter 4.

2.5. THE HISTORICAL DEVELOPMENT OF SVAS

Taking the decision to adopt one or more SVA involves considering more than just political inclusion or participation.

Taking the decision to adopt one or more SVA involves considering more than just political inclusion or participation. Both the specific challenges of holding elections and the broader issues of society, demographics and democratic culture change over time. Electoral frameworks with a long history, such as those of France, the United

Kingdom and the United States, have developed step by step over 200 or more years. In countries that were once subject to colonization, the past administrative context has endured, with the historical legal and procedural framework applied to the first post-independence elections, after which this legacy has been subject to a steady process of amendment and development in response to specific contexts and local circumstances.

Canada provides a good example of how the introduction of SVAs has gradually made electoral processes more inclusive. Many of the forms of early Canadian electoral practice reflected those used at the time in the UK. The long-term progression in the use of different forms of SVAs over time has been chronicled, demonstrating the range of issues, practicalities, and on occasion political pressures, that have come to bear (Elections Canada 2020). From first steps to the wide inclusion that is now in place, the process took approximately 100 years, as described in Table 2.4.

Table 2.4. **Key dates in the introduction of SVAs in Canada**

1915	Postal voting for overseas military voters.
1917	Polling stations abroad for overseas military voters.
1920	Assisted voting for blind voters and voters with disabilities. Early voting for commercial travellers, railway workers and sailors.
1934	Early voting for air crew, fishery crew, police, military.
1940	Renewal of postal voting for overseas military voters.
1945	Proxy voting for prisoners of war.
1951	Special polling stations in sanatoria and chronic care hospitals, and mobile ballot boxes for their immobile residents.
1955	Postal voting for military spouses.
1960	Early voting for any voter away from residence on election day. Special polling stations in homes for the elderly, and mobile ballot boxes for their immobile residents.
1970	Early voting for reasons of age, infirmity or advanced pregnancy or because of religious observance. Postal voting for public servants posted overseas and their dependants. Proxy voting for fishery crew, sailors, prospectors and full-time students.
1977	Postal voting for civilians employed at overseas military facilities. Proxy voting for air crew, forestry workers and topographers.
1993	Early voting for any voter in Canada. Postal voting for any overseas voter who had last lived in Canada less than five years previously. Postal voting for any voter in Canada unable to vote in person on election day or early. Special polling in electoral offices for any voter in Canada unable to vote in person on election day or early. Special polling stations for military, prisoners and temporary hospital patients. Proxy voting superseded and abolished.
2018	Postal voting for any overseas voter—maximum of five years for absence of voter from Canada abolished.

Source: Elections Canada, *A History of the Vote in Canada*, 3rd ed (Gatineau: Elections Canada, 2020), <https://www.elections.ca/content.aspx?section=res&dir=his&document=index&lang=e>, accessed 5 December 2022.

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Chapter 3

BENEFICIARIES OF SVAS

Scaling up or adopting new SVAs benefits certain groups in society more than others, while different types of SVA will serve different groups better than others. International obligations and standards define these groups' right to vote. This chapter indicates how their right to vote may be facilitated in practice by each SVA; however, the list of the main SVAs serving each group cannot be exhaustive. Consideration is given to how SVAs are implemented and to some of the challenges that could arise. Eligibility of voting rights by different groups, such as incarcerated persons, is not discussed here: an assumption is made that voting rights are provided to these groups in keeping with the principle of universal suffrage, and that arrangements are therefore needed for its effective exercise. National examples of laws and policies governing the provision of SVAs for these groups are also included.

Different types of SVA will serve different groups better than others.

International standards for election processes include guidelines on the principle of non-discrimination, which intends to prevent cases where voting procedures may in practice disenfranchise certain vulnerable groups. The criteria defining a vulnerable group may be quite broad and different citizens may have intersectional profiles depending on a specific context. Beyond the general provisions on non-discrimination (e.g. the Universal Declaration of Human Rights (UDHR) (United Nations General Assembly 1948) and the International Covenant on Civil and Political Rights (ICCPR) (United Nations General Assembly 1966)), other texts refer to the same concern:

> Discrimination need not be deliberate. It may arise unintentionally. A neutral criterion may operate in certain circumstances in a discriminatory way. For example, residence is a common requirement for eligibility to vote in a constituency based electoral system. That requirement may, however, operate in a discriminatory way in respect of refugees (meaning citizens or permanent residents of the state who have fled abroad), nomadic peoples or internally displaced persons. Residency requirements may discriminate against national minorities.
> (OSCE/ODIHR 2001: 20)

Other texts highlight the importance of some aspects to avoid negative collateral effects of certain voting procedures: 'voter education campaigns should extend throughout the territory of the country, including to rural and outlying areas' (United Nations Centre for Human Rights 1994: para. 125). Importantly, all electoral administrations should commit 'to provide to every voter the highest quality service required to enable voters to exercise their rights with the least possible inconvenience, given the circumstances and the country's legal framework' (International IDEA 1997: para. 20).

'Persons who have been deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote.'

3.1. **INCARCERATED PERSONS**

Main SVAs serving this group: postal voting, special polling stations, mobile ballot boxes and proxy voting.

There are several categories of incarcerated persons, including those in pretrial detention, and those convicted of major or minor offences or serving long or short sentences. International standards regarding their voting rights apply differently to different groups. Pretrial detainees often make up a high percentage of the total number of incarcerated persons, and the United Nations Human Rights Committee clearly states: 'Persons who have been deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote' (United Nations Human Rights Committee 1996: para. 14).

United Nations General Assembly Resolution 45/111 of 14 December 1990, Basic Principles for the Treatment of Prisoners (United Nations General Assembly 1990a), states: 'Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and … the International Covenant on Civil and Political Rights and the Optional Protocol thereto... .' The right to vote is thus not absolute, but nor is it necessarily abrogated by the fact of incarceration. General Comment 25 paragraph 14 (United Nations Human Rights Committee 1996) also states: '[T]he grounds for deprivation [of the right to vote] should be objective and reasonable. If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence.'

The legal provisions and the practicalities for voting by incarcerated persons vary widely (Penal Reform International 2016). Brazil and Kyrgyzstan, for example, have a complete ban on voting while in prison. In contrast, in Canada and Norway, there are no restrictions on voting for incarcerated people (Hersom 2022). In Canada, a liaison officer supports prisoners to complete the application register to vote and, later, to vote (Elections Canada 2019). In some countries, including Belgium, Iceland, Luxembourg and Poland, some convictions result not only in incarceration but in the loss of citizens' rights, including the right to vote, for a period which may extend beyond the prison sentence.

Beyond the franchise itself, it may not be straightforward, or even possible, for prisoners to have access to the electoral procedures. Countries may effectively deny prisoners access to voting by failing to implement SVAs and making them available.

Countries may effectively deny prisoners access to voting by failing to implement SVAs and making them available.

For example, although the Ugandan Constitution does not differentiate between the voting rights of prisoners and other citizens, there are no provisions in place to guarantee access, and no voter registration process in place, for prisoners. In Peru, prisoners who are yet to receive a judicial decision retain their electoral rights, although in practice it is almost impossible for them to exercise their right to vote. In Ireland, where only one in five prisoners exercise their right to vote, registration procedures were cited as a potential reason for

low participation. In Kenya the Constitution (2010) protects the right to vote for incarcerated people, yet it took a 2012 complaint to the High Court to ensure that the Independent Electoral and Boundaries Commission (IEBC) assumed the active role necessary to provide access to voting.

If prisoners are able to vote, it is usually through SVAs such as postal voting, proxy voting, or on-site voting through special polling stations or mobile ballot boxes.

If prisoners are able to vote, it is usually through SVAs such as postal voting, proxy voting, or on-site voting through special polling stations or mobile ballot boxes. Even then, incarcerated voters may face challenges in casting their votes freely. Unregistered incarcerated persons may be unable to access their state's voter registration process. Prisoners may be subject to intimidation or coercion, affecting the freedom of their vote or the secrecy of their ballot (OSCE/ODIHR 2010: 76).

Incarcerated persons may be prohibited from using the Internet and may in general have little information regarding candidates and campaigns in their electoral jurisdictions. It is important to examine best practices for administering elections in countries where literacy or prison policies may present a barrier to voting and accessing electoral information and processes. In Norway and Sweden, prisoners are allowed to vote, but Langelid et al. (2009: 13) point out that, with lower levels of education among the prison population, there may be a need to re-examine voters' access to information and legal rights regarding voting, and the subsequent impact on voter turnout rates.

Voter turnout for incarcerated people is often low compared to the population at large. In contrast, in the Philippines, prisoners are brought in groups to a special polling station in the prison yard, and a prisoner who wishes not to vote and stays behind is thus clearly visible. Neutral observers and party and candidate representatives may be prevented from witnessing the voting process in prisons, reducing or eliminating the necessary transparency. The practicalities and security arrangements of voting arrangements for prisoners require careful examination.

In Australia, prisoners serving a sentence of less than three years or who are in periodic detention or on early release can enrol to vote. They can use postal vote or vote in person with a prison mobile

polling team in those selected prisons where the Australian Election Commission sets up polling facilities that operate in the same way as ordinary polling places (Australian Election Commission 2007).

Box 3.1. **Integrity and accessibility measures for incarcerated persons**

- Concrete implementation measures to be established following the franchise that is admitted by the legal framework.
- Voter registration to be customized to the specific environment, SVA and needs of inmates.
- Voter education to be enhanced targeting inmates and taking into account usual barriers for them to access such information in standard ways.
- Access to information on the electoral campaign to be enhanced and customized to the specific needs of inmates.
- Coercion on voting to be avoided through appropriate voting protocols of each SVA and surveillance by trained polling staff.
- Voting accessibility to be ensured in terms of voting hours compatible with internal prison rules or available spaces and devices (e.g. online voting).
- Observers and party agents to ensure transparency and accountability.

Country example: Controversy regarding prisoners voting in Zambia

In accordance with a 2016 Constitutional Court decision, the Electoral Commission of Zambia announced that it would allow prisoners to vote in the 2021 elections. 'However, the announcement … brought divided opinions from different stakeholders, with opposition political parties accusing the governing party of trying to use prisoners to manipulate the elections while the ruling party has stated that there is nothing sinister' (Xinhua 2020).

International observers reported that the voting processes taking place there were generally well managed (Commonwealth 2021: 10). However, a number of potential areas of concern have arisen with prison voting, including: the inability of political parties to reach voters in prison; claims of the politicization of the nation's correctional service; denial of prisoners' access to information; deception of voters (e.g. spreading rumours that their vote is not secret); and voter intimidation (Kaaba and Kapembwa 2021).

3.2. **PERSONS WHO ARE RESIDENT ABROAD**

Main SVAs serving this group: postal voting, special polling stations abroad, proxy voting and online voting.

Diaspora may have an important role in homeland politics, and both the eligibility of citizens living abroad to vote, and the arrangements to facilitate access to voting may become a sensitive challenge. Regarding international standards, the Code of Good Practice in Electoral Matters of the Venice Commission accepts out-of-country voting as an option: 'the right to vote and to be elected may be accorded to citizens residing abroad' (Venice Commission 2002: 5, I.1.1.c.v). There are more prescriptive documents, such as the Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States, 2002, article 2: 'The observance of the principle of universal suffrage means: … c) each citizen, residing or staying in the period of the national elections outside the territory of their state, has the same electoral rights as the other citizens of their state. Diplomatic and consular missions and their officials shall assist citizens in the realization of their electoral rights and freedoms' (EU EODS 2016: 206).

Although most countries offer some citizens the opportunity to vote from abroad, not all do so (see the International IDEA Voting from Abroad Database (International IDEA n.d.)). In those states that do provide it, there may be legal limitations on who is eligible to vote from abroad or administrative barriers that make such voting difficult. Some countries only offer out-of-country voting to citizens who are abroad for certain authorized purposes (Navarro, Morales and Gratschew 2007: 19). Other citizens may forfeit their right to vote from abroad if they have obtained dual nationality (Green 2007: 92). There may be limitations on the ability of a citizen abroad to vote based on the duration of their residence abroad. For example, as of 2022 German voters living abroad were entitled to vote in federal elections as long as they had lived in Germany for at least a three-month period during the preceding 25 years. Reasons vary when it comes to the justifications for such restrictions, ranging from the type of the elections where expatriated citizens would be able to participate, the impact of their participation in homeland partisan

distribution of powers, to the notion of citizenship and their actual connection to the country.

Voting from abroad may not be available for all types of election. Depending in part on the country's electoral system, only national presidential or parliamentary elections or referendums, and regional elections such as to the European Parliament, may be available to overseas voters. In parliamentary elections with mixed systems, voters abroad may be given a vote only in the nationwide constituency, as is the case in Kyrgyzstan. However, this restriction is uncommon, and the Supreme Court of Japan ruled in 2005 that this practice was illegal in Japan. Some countries may also provide voters abroad with the opportunity to vote at the subnational level (e.g. Iceland, Kazakhstan, Russia and Spain) (Ellis et al. 2007: 234–45).

From an operational standpoint, it is obvious that SVAs will be needed to effectively enfranchise such voters. Beyond the specific voting arrangements, particular attention should be paid to the voter register, so that a fully updated list is available for every election, which can be difficult given the geographical spread of citizens involved. Changes of place of residence and reporting of the deceased might be problematic, and citizens may face challenges in registering or obtaining proper voter identification documents to vote. Voter lists and voting arrangements should also be in place to prevent double voting—that is a citizen being able to cast a ballot both abroad and in their homeland (Thompson 2007: 123).

Voter lists and voting arrangements should also be in place to prevent double voting—that is a citizen being able to cast a ballot both abroad and in their homeland.

A wide range of voting mechanism options are available for this group: postal voting, special voting stations (mainly in diplomatic representations and consular posts) and proxy voting are the most important. More than one mechanism may be used. In any particular setting, with polling sites spread worldwide and different deadlines depending on the mechanisms adopted, crucial design issues include deciding where to conduct the counting, a proper chain of custody, and an efficient results transmission system.

Box 3.2. **Integrity and accessibility measures for persons who are resident abroad**

- Voter registration to be duly updated, in particular when it comes to changes of place of residence and deceased people. Double voting to be prevented.
- Careful negotiation of agreements with host countries for voting abroad and for election campaigns abroad.
- Information procedures on voter lists to be established taking into account accessibility barriers of diaspora.
- Delivery of voting material to be compatible with election calendar.
- Proper chain of custody and efficient results transmission system to be ensured.
- Voter education to be enhanced targeting diaspora and taking into account usual barriers for them to access such information in standard ways.
- Access to information on the electoral campaign to be enhanced and customized to the specific needs of the diaspora.
- Voting accessibility to be ensured in terms of deployment of voting premises or voting means for citizens in remote locations.
- Observers and party agents to be deployed abroad, either from the home country or recruited locally, in order to ensure transparency and accountability.

3.3. **PERSONS WITH OFFICIAL DUTIES**

Main SVAs serving this group: postal voting, early voting or voting at special polling stations where voters are posted, such as at a military base or diplomatic mission.

These groups often include active military and police, election officials, and diplomats based in embassies and consulates abroad. Given that different profiles are gathered under the same heading, the relevant voting arrangement may also vary.

International standards regarding voting rights of personnel on duty include discussions on the eligibility of certain groups, such as the military: 'the need for democratic control over the military should not be used as an excuse to deprive automatically persons serving military service of their voting rights. ... This shall not exclude a possibility for a certain margin of appreciation by States applicable in circumstances clearly defined by law' (Lazarova Trajkovska 2005: 9). In this regard, special polling stations may be set up for military compounds in remote areas (OSCE/ODIHR 2013: 60).

Military personnel may be unable to attend ordinary polling premises for different reasons, including staff being temporarily transferred to areas different from their place of residence, or to military compounds in remote locations where the electoral administration is not in the position to deliver ordinary voting arrangements. Personnel on duty on military ships will also need alternative voting arrangements. As with similar cases (e.g. incarcerated voters), official scrutiny may be undertaken by military officials, thereby departing from the ordinary control that exists in other polling premises. The secrecy of the vote and related freedom of the voter may therefore become challenging. Transparency may also be a concern due to limited access of party agents and observers. Voter registration and transportation of electoral material will require special arrangements. Training and commitment of involved actors also need special attention. While special polling stations may be unavoidable, they 'should be accompanied by an express stipulation that this is strictly exceptional and, wherever geographically possible, voters serving in the military should vote in ordinary civilian polling stations' (OSCE/ODIHR 2013: 60).

Police, election officials and similar staff are deployed on election day; therefore, they may be unable to reach their home polling stations. They could be registered to vote in the polling station where assigned, benefit from different forms of early voting, or use special polling stations on election day targeting these groups. Customized voter registration and appropriate handling of voter lists will be crucial.

In general terms, diplomatic staff abroad will be treated as other citizens living abroad, although special arrangements may exist too. In Armenia, for instance, online voting is only available for diplomats and their families living abroad (Driza Maurer, Nettmann and Grigoryan 2021: 323–25). In Ireland, postal voting is available for diplomats and relatives, national police and Defence Forces (Citizens Information Ireland 2022). In Ghana, persons on duty on election day will vote on a date before (Electoral Commission of Ghana 2016: article 23; n.d.). In Lesotho, diplomats, their families and embassy employees are the only voters who can vote abroad, through early polling stations in embassies (Lesotho 2011: articles 73 and 152).

Box 3.3. **Integrity and accessibility measures for persons with official duties**

- Voter registration to be duly adjusted to the specific needs of this group. Special voter list to be established and double voting to be prevented.
- Information procedures on voter lists to be established taking into account accessibility barriers of certain groups (e.g. military personnel).
- Delivery of voting material to be compatible with election calendar.
- Proper chain of custody and efficient results transmission system to be ensured.
- Access to information on the electoral campaign to be enhanced and customized to the specific needs of the group.
- Coercion on voting to be avoided through appropriate voting protocols of each SVA and surveillance of trained polling staff.
- Voting accessibility to be ensured in terms of voting hours compatible with internal operational rules or available spaces and devices (e.g. online voting).
- Deployment of observers and party agents to be adjusted to the specific nature of the SVA to ensure transparency and accountability.

3.4. **REFUGEES**

Main SVAs serving this group: postal voting, special polling stations and proxy voting, and online voting.

International standards on the voting rights of refugees reflect the specific needs of this group. The African Union, for instance, asks state parties to 'adopt legislative and administrative measures to guarantee the rights of women, ethnic minorities, migrants, people with disabilities, refugees and displaced persons and other marginalized and vulnerable social groups' (African Union 2007: article 8.2). Likewise, the Organization for Security and Co-operation in Europe (OSCE) is committed to 'secur[ing] the full right of persons belonging to minorities to vote and to facilitate[ing] the right of refugees to participate in elections held in their countries of origin' (OSCE 1999: para. 26).

Refugees are citizens living abroad by definition, but in particular circumstances. The unique nature of their status abroad may make voter registration and voting in the home country difficult or impossible. Moreover, attention should be paid to the willingness of the origin state to facilitate refugee voting, personal security issues and other pressures from host states. In some circumstances, a vote

by a refugee in an election in the country of origin may be interpreted by a host state as an indication that the voter no longer considers themselves a refugee, which may lead to forced repatriation (Bekaj and Antara 2018: 72). The establishment of a secure, trustworthy SVA for refugee voters can only emerge as part of agreements involving international actors, namely between the country of origin and the host state. Treatment and protection of personal data, and fear of their misuse by the country of origin, should be properly addressed in order not to discourage participation. SVAs should provide solutions for a secret ballot in a manner free of intimidation. For instance, arranging voting in the diplomatic premises of their origin country could deter some voters from participating.

Similarly to IDPs, refugees may find it difficult to provide all documentation required for voter registration and voting, such as current identification documents, proof of residency and birth certificates, as such documents may have been lost or destroyed or have expired, with replacement documents difficult to obtain.

Refugees may find it difficult to provide all documentation required for voter registration and voting, as such documents may have been lost or destroyed or have expired.

Refugees voting from outside national borders face challenges at election time such as accessing candidate and other electoral information. They also have to establish adequate proof of identification and residency or registration in their communities of origin: this can be problematic due to the political or humanitarian causes that led them to become refugees. For example, Bosnia and Herzegovina has provided SVAs for refugees since 1996—a group of approximately 800,000 at the start; a first emergency OSCE Refugee Elections Steering Group (RESG) was followed by other institutional settings (Edgeworth and Hadzimehic 2007: 163–67). In South Sudan, 'host countries [Kenya in this case] may sometimes encourage refugees' participation in country-of-origin elections as a first step towards their repatriation … the Kenyan Government supported the OCV [out-of-country] process for the 2011 referendum on the independence of South Sudan by deploying police on a 24-hour basis to all eight polling stations' (Bekaj and Antara 2018: 76; see also *Daily Nation* 2011).

Box 3.4. **Integrity and accessibility measures for refugees**

- Attention should be paid to international agreements between involved countries in order to ensure smooth voting channels for this group of citizens.
- Security concerns to be assessed vis-à-vis the relevant host country.
- Treatment of personal data, and fear of their misuse by the country of origin, to be properly addressed in order not to discourage participation. Secret ballot to be ensured whatever the SVA in place (e.g. polling stations at diplomatic premises).
- Measures related to persons living abroad to be applied here as well.

3.5. INTERNALLY DISPLACED PERSONS

Main SVAs serving this group: voting outside the voter's home precinct, special polling stations, mobile polling stations, provisional voting, postal voting, proxy voting and online voting.

IDPs are persons living away from their home communities but who remain within the state. While internal migrant workers or students can in theory change their location on a voluntary basis, IDPs are forced to abandon their homes and to settle in a different zone, sometimes a long distance away, due to wars, natural disasters or social conflicts.

International standards emphasize that voting procedures should be customized to accommodate these circumstances: 'Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights: … (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right' (United Nations High Commissioner for Human Rights 2004: Principle 22.1(d)).

A state must take all effective measures to ensure that all persons who are entitled to vote are able to exercise that right.

Beyond mere logistics, rules establishing residence and how they apply to voters' lists should not prevent or daunt citizens to take part in elections:

> All citizens of a country have the right to participate in elections ... This means that residence requirements for

> voting should be reasonable and must not be imposed in such a way as to exclude IDPs from participating in elections. A state must take all effective measures to ensure that all persons who are entitled to vote are able to exercise that right. Where relevant, the legal framework must specifically provide practical mechanisms that allow for the effective and meaningful suffrage rights of IDPs. (OSCE/ODIHR 2013: 21)

In practice, IDPs often face challenges to registering and voting in their communities of origin and place of current residence, similar to those of refugees. Registration and election activities by the EMB may be limited or entirely cancelled in their home community due to security reasons. IDPs may face concerns regarding their personal security, and challenges to accessing electoral information and administrative and electoral services in their home communities. Often IDPs have difficulties in proving identification registration and original residency when the required documentation has been lost or destroyed: replacement documents may be difficult or impossible to obtain. Stringent residency requirements may make IDPs ineligible to vote where they live, while voting in their communities of origin may be impossible due to security, logistic and financial restrictions. IDPs will be disenfranchised if registration requirements are not reasonably adjusted to their condition, or where there is a lack of support from the national government or the subnational government in their community of origin.

In summary, while IDPs deserve to be treated as not having been moved from their community of origin, in practice the reality may be completely different. SVAs are intended to bridge this gap, which is not always easy.

While IDPs deserve to be treated as not having been moved from their community of origin, in practice the reality may be completely different.

In Ethiopia, in the 2021 national elections, an attempt was made to facilitate voting arrangements for IDPs, but various constraints were identified: IDPs not living in settlements were not considered; voter education was limited; observers were not granted access in practice; and the EMBs shared no figures on certain procedural aspects (IRI and NDI 2021: 22–23). In Ukraine, legal provisions regarding residency make IDPs' voting rights more difficult as contradictions may exist between the rules asking for residency in

the new constituency and those requiring links with the community of origin: 'there was also a common fear among IDPs that, due to legal uncertainty, renouncing permanent residence in the places of their origin may lead to the loss of their IDP status and related social benefits' (Drnovsky 2019: 16–17).

In Nigeria, the experience in 2015 of organizing IDP voting in areas where a state of emergency was in force led to a change in the electoral law. This now includes a specific provision stating that persons displaced as a result of an emergency should as far as practicable not be disenfranchised (INEC Nigeria 2022: article 24). Building on the parallel provision in the preceding law, the EMB in 2018 developed a framework policy document and accompanying regulations on IDP voting to guide and drive IDP voting operations. The framework is based on the overarching guiding principle of the EMB's commitment to inclusivity, which is consistent with the avoidance of discrimination in the electoral process (INEC Nigeria 2018a; 2018b).

Box 3.5. **Integrity and accessibility measures for internally displaced persons**

- Residence requirements to be reasonable considering specific needs of IDPs.
- Residence requirements that promote participation and make the current situation of the IDP and their attachment compatible to the place of origin.
- Voter registration requirements feasible for IDPs, particularly required documentation to be adjusted accordingly, for example, by accepting expired or alternative documentation or witnesses.
- Facilitation of access to issue new or replace lost documents, such as voter registration cards, residency, and birth certificates.
- Access to voter information and electoral campaign to be enhanced and customized to the specific needs of the group.
- If necessary, specific security measures to ease IDP participation in the registration and voting process.
- Voting accessibility to be ensured in terms of voting premises covering all the different locations where IDPs live.
- Digitization of civic and voter registration to make it easier to replace lost documents and transfer between voter lists while maintaining the integrity of related processes.
- Protection of sensitive registration data to be ensured.
- Where emergencies that result in displacement are foreseen as possible or even likely, prior consideration of a legal and operational framework.

3.6. **PERSONS AWAY FROM THEIR HOME ELECTORAL DISTRICTS ON ELECTION DAY**

Main SVAs serving this group: postal voting, special polling stations and online voting.

This general category includes people who are away from home because they study or have private employment outside the country—for example international migrant workers and international students. It also includes people who are away from their home communities in another domestic location, including workers employed elsewhere in-country, travelling workers and students. An important distinction exists between the international and domestic contexts. Migrant workers working internationally are protected by the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (United Nations General Assembly 1990b), which accords them electoral and political rights, including the right to vote in their country of origin: 'migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation' (article 41.1). The Inter-American Democratic Charter, approved in 2001 (OAS 2001), also mentions migrants as a group to whom the prohibition of discrimination applies (article 9).

International migrant workers may face practical problems when registering and voting. They may move frequently and may not have a fixed postal address. The need to prove identity and residence may make re-registering in a new location before election day impractical or impossible. They may also be hampered if they do not have the proper documentation in the host country.

In the domestic context, each group poses slightly different challenges. In-country migrant workers may also move frequently, making re-registering in a new location before election day impractical or impossible. Large cities may seek to discourage rural migrant workers from registering to vote in their municipal elections by establishing long residency requirements for voting, and rural communities may impose similar barriers on migrants from urban centres. Seasonal workers have a community of origin and also a

working location that may change from year to year, but the stability of the voter register may make it difficult to reflect such movements to enable them to vote in an accessible location whenever elections are called. In India, the arrangements for seasonal workers are significant both operationally and politically, as partisan strategies may be targeted at participation of this group of voters (Sharma et al. 2012). Finally, travelling workers may not know their whereabouts on election day until the day itself arrives.

Students away from their home district may identify with the community of their family home—but may come increasingly to regard their home location as the community of their university or college. This raises the questions of where they should be registered, and in which elections they should vote. The home location of nomadic peoples and their communities may need to be determined.

For many voters away from their home community on election day, the lack of resources may make the cost of returning to a home community to vote too expensive.

For many voters away from their home community on election day, the lack of resources may make the cost of returning to a home community to vote (and previously, if necessary, to register to vote) prohibitive, effectively disenfranchising most domestic and international migrants. Legal frameworks in some states have assisted domestic migrant workers by enabling them to register and vote by absentee or postal voting, or in special polling stations used by other citizens away from their home districts on election day.

In Timor-Leste, in the 2022 elections, special polling stations were established to facilitate access to elections for those living in the capital but registered in their community of origin. However, operational problems arose affecting voters' lists and voter education (European Union Election Observation Mission 2022: 9–10). In Mexico, the diaspora has been an important social and political player, but the national EMB found it difficult to launch an efficient programme capable in practice of enfranchising voters abroad, who are mostly migrant workers. In 2021 the EMB sought to extend the franchise to citizens abroad through the introduction of electronic voting (INE 2021: 3). In Canada, special arrangements exist for university students: 'voting at these campus offices is done by special ballot. Voting by special ballot is a convenient option for all electors who may be unable to vote at their advance polling station, or at their polling station on polling day. Electors who are outside of their

riding during the election period, like students living on campus away from home, are among those who may benefit from voting by special ballot, whether by mail or at a Vote on Campus location' (Elections Canada n.d.a).

Provisions for this category of voter may be a target for attempted electoral fraud, especially if political actors perceive potential electoral advantage as a result of voters being registered in a particular constituency. In Spain, voter registration offices have a specific duty to investigate and report what appear to be significant and unjustified changes in the number of voters on a register, and the representatives of political parties and candidates may challenge a register where such changes have been found (Spain 1978 revised 2011: articles 30(1)(c), 38(2) and 39(4)).

Box 3.6. **Integrity and accessibility measures for persons away from their home electoral district**

- Voter registration to be duly adjusted to the specific needs of this group, in particular when it comes to changes of residence or requirements of documentation. Special voter lists to be established and double voting to be prevented.
- Electoral procedures to prevent partisan misuse of SVAs in terms of artificial electoral migrations.
- Voter information campaigns to be implemented to raise awareness on SVAs serving this group of voters.
- Delivery of voting material to be compatible with election calendar.
- Proper chain of custody and efficient results transmission system to be ensured.
- Access to information on the electoral campaign to be enhanced and customized to the specific needs of the group.
- Concrete SVAs chosen to ensure accessibility, taking into account the needs of voters to be served (e.g. geographical location and mobility).
- Deployment of observers and party agents to be adjusted to the specific nature of the SVA to ensure transparency and accountability.

3.7. **HOSPITALIZED AND HOMEBOUND VOTERS**

Main SVAs serving this group: mobile ballot boxes, postal voting, proxy voting and online voting.

Another group who may be unable to vote conventionally are hospitalized or homebound voters. SVAs may empower members of these groups to transmit their votes through proxies, through the mail, or by other methods. Alternatively, the ballot box may be brought to the affected group in the form of mobile voting.

Accessibility to voting procedures appears here as the main rationale behind such arrangements: 'election laws may contain special provisions to facilitate voting by persons who are physically disabled, those in hospital or in prisons, those who are out of the country or who cannot come to the polling station for other valid reasons' (International IDEA 2002: 73).

In South Korea, for instance, legal provisions encompass a variety of cases:

> Any of the following persons may vote at his or her place of residence: … (2) A person who has been admitted for a long time in a hospital, sanatorium, asylum, prison, or detention center; (3) A person who is unable to move freely on the ground of his or her serious physical disability; (4) A person who resides in an island specified by the National Election Commission Regulations, among remote and isolated islands too far away for inhabitants to vote at the nearest early voting polling station or regular polling station; (5) A person specified by the National Election Commission Regulations as a person who stays for a long time in an area in which it is impracticable to install an early voting polling station or regular polling station…
> (South Korea 2020: article 38(4))

Creative thinking and interpretation by the EMB maximized the use of these provisions during the Covid-19 pandemic (Spinelli and Butcher 2023). In Croatia, voting committees visit welfare institutions (OSCE/ODIHR 2016: 6, 8). In North Macedonia, homebound voting takes place on the eve of the election day, including in 2020 by voters with Covid-19 or in quarantine (OSCE/ODIHR 2020: 11).

In designing mobile voting, the practical question may arise whether the opportunity to vote can be accorded to all eligible voters in all

hospitals or homes, or whether only residents of certain hospitals or other institutions will have the opportunity to use it. Voter registration, or application to vote from home or hospital, may also be not easily accessible to some voters. An additional challenge may be ensuring that mobile voting is conducted in a manner that preserves the secrecy of the ballot and prevents coercion or intimidation of voters by others.

Box 3.7. **Integrity and accessibility measures for hospitalized and homebound voters**

- Voter registration to be made easy to access to this group of voters with mobility problems. Special voter list to be established and double voting to be prevented.
- Delivery of voting material to be compatible with election calendar.
- Proper chain of custody and efficient results transmission system to be ensured.
- Coercion on voting to be avoided through appropriate voting protocols of each SVA and surveillance of trained polling staff.
- Voting accessibility to be ensured in terms of deadlines and the availability of mobile voting teams.
- Deployment of observers and party agents to be adjusted to the specific nature of the SVA to ensure transparency and accountability.

3.8. VOTERS WHO MAY HAVE DIFFICULTY ACCESSING POLLING SITES FOR REASONS OF REMOTENESS OR SOCIO-CULTURAL REASONS

Main SVAs serving this group: postal voting, special polling stations, mobile ballot boxes, proxy voting and online voting.

Voter registration and voting itself may be challenging in sparsely populated areas with few or no transport links. Voters in remote areas may thus face challenges in voting conventionally, and the same kind of challenges may be encountered by nomadic communities.

The inclusion of nomadic people in electoral frameworks raises the additional question of how they are linked into the registration system, which is usually based on residence and constituency. There are a few examples of how this has been addressed, such as the UK

and France, where a declaration of connection to an area may suffice for electoral inclusion, and another approach used in Afghanistan in the period up to 2021 where the Kuchi nomad community elected 10 legislators from its own nationwide constituency (Häggrot 2018).

Even when a solution is designed to these issues of registration and constituency linkage, SVAs—probably special polling stations or mobile ballot boxes—are likely to be necessary to make inclusion work in practice. The SVA is not a stand-alone provision, but an essential element of a broader package to support inclusion. The effectiveness of the Afghanistan approach was restricted in 2018 by the presence of Kuchi polling stations in only 7 of 34 provinces (OSCE/ODIHR 2014: 9–10).

Members of marginalized groups, such as the LGBTQIA+ community, may face unique obstacles in verifying identity for the purpose of voting.

Voter registration and voting itself may also be challenging for some groups for a wide range of socio-cultural reasons. Standard residency, voter identification, language and other requirements may be more difficult for these groups to meet. Members of marginalized groups, such as the LGBTQIA+ community, may face unique obstacles in verifying identity for the purpose of voting. These concerns, and a desire by EMBs to help ensure that the electoral will of these communities is considered, have led EMBs to adopt SVAs as part of a programme of outreach. SVAs such as mobile ballot boxes can facilitate these groups exercising their right to vote.

In Mexico, traditional Indigenous communities may be allowed to vote via their own practices (*usos y costumbres*) (de la Garza Talavera 2018). Such arrangements are intended to make electoral laws inclusive within a society that is recognized as culturally pluralistic and non-homogeneous.

Where different queues by sex, or even different polling stations, are used for voting, the LGBTQIA+ community may face barriers since official voters' IDs will not reflect their gender identity. In Nepal, priority was given to some voters as an attempt to facilitate the process, though requests for more ambitious measures existed (Tandukar 2022).

Box 3.8. **Integrity and accessibility measures for voters with socio-cultural challenges**

- Attention to be paid to non-discrimination as the ruling principle governing SVAs to serve this group of voters.
- Voter registration and authentication (e.g. LGBTQIA+ community) to be duly adjusted to the specific needs of this group.
- Targeted and sufficiently broad voter information campaigns to be established in order to raise awareness of these specific SVAs.
- Polling station layout, training of polling staff, and electoral procedures in general to be conceived as mechanisms to serve both standard cases and specific needs of certain groups.

3.9. VOTERS UNABLE TO VOTE AT POLLING SITE CLOSED DUE TO EMERGENCIES OR OTHER URGENT CIRCUMSTANCES

The appropriate SVAs to serve this group will largely depend on the type of emergency that takes place. In general terms, should ordinary polling sites not be available, SVAs in uncontrolled environments, such as online or postal voting, are likely to provide the flexibility needed in such circumstances. Likewise, changing voting days or locating special polling stations outside the risk zone could be useful. Unconditional SVAs (see below) will be used too.

Voters who reside in areas that may become subject to emergencies or other irregularities can benefit from SVAs. These conditions include at least the following:

Voters who reside in areas that may become subject to emergencies or other irregularities can benefit from SVAs.

- violence or the threat of violence: including general election-related violence, violence targeting certain groups in society, or widely spread domestic and international conflict;

- natural disasters: including hurricanes, floods, earthquakes, wildfires, and poor weather conditions; countries with weak physical infrastructures may be particularly susceptible to problems on election day due to these kinds of events;

- public health emergencies: including the threat of communicable diseases such as Covid-19; or

- logistical or other irregularities: such as, for example, ballots, booths or other supplies not arriving at a polling site by election day, or loss of electricity at a polling site.

Countries with a history of emergencies or irregularities may find advance planning valuable, considering mechanisms for risk management, resilience planning and crisis response. Such planning may be especially relevant where the frequency and intensity of natural emergencies is growing as a result of climate change (Asplund, Birch and Fischer 2022). Provisions in election law and regulations that enable fast responses to enable safe voting for those in communities frequently affected by such incidents may be valuable. Electoral legal frameworks may also have provisions enabling voters to vote in person at a later date after the urgent circumstance has been addressed. Countries experiencing the Covid-19 pandemic considered relieving pressure on election day sites by staggering access to the vote, such as by encouraging the elderly, hospitalized and others with vulnerabilities to vote early, through mobile ballot boxes, or by proxy, to protect vulnerable voters (Asplund and Akinduro 2020).

Localized violence that lasts for extended periods of time, such as due to a long-term insurgency, may effectively make in-person voting impossible at any time.

The challenge in many of these circumstances can be ensuring that voters in affected regions are not ultimately disenfranchised. Localized violence that lasts for extended periods of time, such as due to a long-term insurgency, may effectively make in-person voting impossible at any time. The rights of other stakeholders besides voters can be impacted in these circumstances. Election officials and poll workers, electoral participants, observers, media, and police or other election security officials may face greater risks to their personal health and safety in these circumstances.

In Ghana, electoral laws allow for a temporary postponement in case of riot, open violence, storm, flood or other natural catastrophe that obstructs the procedures (Ghana 2016). In Canada, regulations approved for natural disasters, which had never actually been implemented, were adjusted to Covid-19 challenges. Postponements were allowed when elections proved ‘impracticable’, which would mean: ‘there are not enough ordinary polling stations available where electors can vote safely; or there are not enough election officers to operate the minimum number of available polling stations

where one can vote safely; or electors cannot attend to their polling station without risk to their safety or without infringing on local health directives' (Elections Canada n.d.b). However, not all electoral laws are as accommodating. In Spain, voting may be called off or abandoned at a polling station for reasons of force majeure (Spain 1978 revised 2011: Organic General Law, article 84).

A change of election day may occur due to emergency circumstances. When a state is compelled to postpone an election because of an emergency or urgent circumstance, fundamental electoral rights are at stake. With the emergence of Covid-19 in 2020, even some states without a history of election postponements were compelled to do so because of the nature of the public health threat (James, Clark and Asplund 2023: 53–66).

International legal instruments governing rights often include provisions regarding the possible derogation of certain rights due to emergencies. For example, article 4(1) of the ICCPR states:

> [i]n time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
> (United Nations General Assembly 1966)

The right to participate in genuine periodic elections as voters and candidates are among those rights that may be derogated under the terms of article 4, according to the ICCPR (United Nations General Assembly 1966: articles 4; 25(b)). The decision 'must comply with all the rigid international standards for such derogations and must not threaten democracy itself. Indeed, the UDHR itself proclaims that any limitations on the rights and freedoms contained therein must be for the purpose of "meeting the just requirements of morality, public order and general welfare in a democratic society". Accordingly, the interruption of periodicity will, in all but the most exceptional

circumstances, violate international standards' (United Nations Centre for Human Rights 1994: 11–12, para. 73).

These instruments oblige states to ensure that these temporary measures are short in duration and narrow in scope. They are not to 'be calculated to corrupt or unnecessarily delay the political process' (United Nations Centre for Human Rights 1994: 16, para. 116).

Challenges that a state can face in these instances may include determining the criteria for declaring an emergency or other set of circumstances that would trigger the need to postpone elections. A state's constitutional framework may provide some guidance regarding: when conditions may warrant a change of an election day; which state entity may be authorized to make such a determination; the limits to the extent that an election may be postponed; and how a determination is to be made that the situation no longer calls for a delay in the electoral process. Decisions to change an election day, even though legally authorized, may lead to political tension if the process for doing so is not generally accepted.

Some states have no detailed constitutional or statutory language explicitly authorizing the rescheduling of an election. France is one example; there is no legal provision in France authorizing the government on its own to postpone an election (Rambaud 2023: 6). Following the first round of French municipal elections on 15 March 2020, the legislature passed a 'law of emergency' that postponed the second round from 22 March 2020 to June 2020 due to the growing public health emergency (Rambaud 2023: 8). The country's Constitutional Council determined that this emergency law conformed with the Constitution, and that a 'legislator can only authorise such a modification of the electoral process on condition that it is justified by an overriding reason of general interest and that, by the methods it has adopted, it does not result in a violation of the right to vote, the principle of honesty in elections, or the principle of equality before suffrage' (Constitutional Council of France 2020). The second round of the municipal elections were ultimately held on 28 June 2020.

The Central African Republic's Constitutional Court took a different approach in June 2020, when it cited the importance of the rule of

law in rejecting an attempt by the government to delay the electoral timetable, despite the presence of the Covid-19 pandemic (Molloy 2021). The Court found that the government's attempts to introduce constitutional amendments delaying the presidential election and extending the president's term violated the existing Constitution's provisions on presidential term limits, against presidential term extensions, as well as a constitutional provision that would prohibit any amendment affecting these provisions (Central African Republic 2017: article 153; Vohito Anyanwu 2020; Molloy 2021). Therefore, the first round of the election was held as scheduled under the unamended Constitution in December 2020.

Box 3.9. **Integrity and accessibility measures in emergencies**

- Voter registration to be duly adjusted to the specific needs of this group. Special voter list to be established and double voting to be prevented.
- Access to information procedures on new and urgent voting arrangements to be ensured.
- Security risks to be duly assessed in order to maintain the overall integrity of the electoral process.
- Deployment of observers and party agents to be adjusted to the specific nature of the SVA to ensure transparency and accountability.

3.10. VOTERS WITH DISABILITIES WHO MAY FIND CONVENTIONAL VOTING DIFFICULT

Main SVAs serving this group: assisted voting, online voting, proxy voting, postal voting and mobile ballot box.

Most democracies have adopted legal measures to ensure that persons with a range of disabilities are empowered to access polling stations on election day and to cast their ballot. Assisted voting is one very obvious SVA that may facilitate voting for certain groups. Persons with other disabilities, however, such as mobility issues or conditions such as agoraphobia, may find conventional voting sites on election day difficult or impossible to access. Covid-19 or other public health risks may add to the challenge voters face entering an indoor space with others to cast a ballot.

The United Nations Convention on the Rights of Persons with Disabilities (CRPD), approved in 2006, is the key official document developing general principles on non-discrimination for citizens with disabilities. Article 29(a) makes reference to their active involvement in politics:

> States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake: (a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by: (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use; (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation; (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice.
> (United Nations General Assembly 2007)

These principles were reaffirmed by the UN Special Rapporteur during the Covid-19 pandemic (Voule n.d.).

Several SVAs may serve these groups, including online, postal, proxy, homebound and absentee voting. Some jurisdictions have implemented forms of SVAs such as 'drive-through' or 'curbside' voting (including a number of jurisdictions in the US, and also Lithuania, which did so as a response to the Covid-19 pandemic (Jačauskas 2020)), or other measures that facilitate the conventional voting process for persons with mobility or health issues. Voting processes like these enable voters with disabilities, who may face serious health risks due to Covid-19, who may be quarantining due to possible exposure to Covid-19, or who may have tested positive for Covid-19, the opportunity to cast their ballots safely and conveniently from their vehicles with clerks on hand to verify identification and provide ballots. Indeed, some jurisdictions have made this form of

voting available not only to persons with certain disabilities, but to all who may wish to avail themselves of it.

Special attention may need to be paid to cases of persons with a mental disability. While the 2006 CRPD principle is that no disenfranchisement would be acceptable and voting arrangements would be always needed, other international texts follow a more cautious approach. This is true of regional European standards (i.e. Venice Commission and European Court of Human Rights (ECtHR)), and also of some UN entities, such as the Committee on Human Rights. In any case, such groups would need very specific SVAs that will likely nuance the formal categories presented so far. Case-by-case solutions would be needed and consideration could be given to a broad understanding of assisted or proxy voting.

Box 3.10. **Integrity and accessibility measures for voters who find conventional voting difficult**

- When necessary, voter registration to be duly adjusted to the specific needs of this group. Special voter list to be established and double voting to be prevented.
- Information procedures on voter lists to be established taking into account accessibility barriers of certain groups.
- Delivery of voting material to be compatible with election calendar.
- Proper chain of custody and efficient results transmission system to be ensured.
- Coercion on voting to be avoided through appropriate voting protocols of each SVA and surveillance of trained polling staff.
- Deployment of observers and party agents to be adjusted to the specific nature of the SVA to ensure transparency and accountability.
- Special attention to be paid to the needs of voters with mental disabilities and appropriate voting accommodations to be put in place.

3.11. ‘CONVENIENCE VOTING’ AND UNCONDITIONAL SVAS: AVAILABLE TO EVERYONE

Many states have adopted ‘unconditional’ SVAs—SVAs for the convenience of all voters who choose the option. Unconditional SVAs are distinct from SVAs that require a valid reason to be used; they enable any voter to take advantage of SVAs without need for an excuse.

Unconditional SVAs are distinct from SVAs that require a valid reason to be used; they enable any voter to take advantage of SVAs without need for an excuse.

Some jurisdictions have even converted most of their voting operations to SVAs, such as postal voting. Regardless of the extent of their use, however, unconditional SVAs may cause some voters to be concerned if they are not administered in a manner that builds confidence in the SVA's efficiency, accuracy and integrity. Concerns that electoral framework designers and regulators must address in these cases are the accessibility of unconditional SVAs to all groups, and assurance that anti-fraud and other confidence-building measures are included, with both the EMB's procedures and, if applicable, the roles of the postal service or relevant Internet software, equipment and service providers.

The Covid-19 pandemic emerging in 2020 sharply shifted the global electoral focus to implementation of widely used SVAs and the need to innovate voting operations. The threat of Covid-19 has been so serious that it has impacted some states' adherence to the obligation to hold periodic elections. Faced with the challenge of holding elections safely, many jurisdictions postponed elections during 2020, although most states who had done so had, by the end of August 2020, either held them or set a new date for a future election (International IDEA 2022; James and Asplund 2020). Many other democracies, however, held elections in 2020 as scheduled despite the pandemic (International IDEA 2022).

Legal framework designers and electoral regulators in many states had to react quickly to reform laws, regulations, and electoral procedures to enable voters to participate in the voting process safely. Some of these reforms included mandating face masks, social distancing and other sanitary practices at election day polling stations. Bolivia, New Zealand and South Korea increased the number of polling stations, while Italy moved to multiple voting days (Asplund et al. 2021). SVAs also emerged as key operations for ensuring that the right to vote was not denied to citizens who could not—or did not wish to—participate in the conventional voting process in polling stations because of health risks. Temporary unconditional postal voting, adopted by the German federal state (*Land*) of Bavaria and by a number of US states, gained much prominence (Wally 2020: 10).

Box 3.11. **Integrity and accessibility measures for unconditional SVAs**

- Unconditional SVAs to be implemented with a universal purpose, thereby avoiding privileged groups to be served by certain SVAs.
- Universal SVAs to be ready to address urgent needs that make conventional voting not available (e.g. Covid-19 pandemic).
- Large voting information campaigns to raise awareness and ensure a non-discriminatory outcome.
- Unconditional SVAs to incorporate integrity and accessibility measures related to the corresponding conditional SVAs.

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Chapter 4

THE LEGAL FRAMEWORK AND SVAS

This chapter covers a number of areas related to the regulation of SVAs in legal frameworks. It begins with the discussion of SVAs in the light of international obligations related to democratic elections, then it briefly highlights the importance of case law related to SVAs, illustrates the different issues that may be brought before courts, and ends with practical considerations related to the legal frameworks for SVAs.

All voting arrangements are designed to give effect to the right to vote.

4.1. INTERNATIONAL OBLIGATIONS

All voting arrangements are designed to give effect to the right to vote. At the international level, human rights enabling individuals to participate in political affairs were recognized in the UDHR (United Nations General Assembly 1948). The Declaration asserted the right to take part in the government of one's country (directly or through freely chosen representatives), as well as the right of equal access to the country's public service. Further, it recognized that '[t]he will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by *universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures*' (article 21.3, emphasis added).

Subsequent negotiations on including political rights in a legally binding international treaty ultimately resulted in their recognition in article 25 of the 1966 ICCPR (United Nations General Assembly 1966). The ICCPR entered into force in 1976 and to date 173 countries have subscribed to it. In the process of negotiations, the

text of the 1948 Declaration was modified so that article 25 of the ICCPR refers to the right to take part in 'the conduct of public affairs', rather than in the government, but retains the wording that this participation may be direct or through freely chosen representatives. Article 25 also provides that elections shall be 'by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors'. The political rights guaranteed by article 25 are provided to every citizen, without discrimination or unreasonable restrictions.

With some modifications, the principles laid down in the UDHR are also reflected in regional human rights treaties. For example, the American Convention on Human Rights (OAS 1969) provides that every citizen shall enjoy the right and opportunity: 'a) to take part in the conduct of public affairs, directly or through freely chosen representatives; b) to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters' (article 23). The African Charter of Human and Peoples' Rights (Organization of African Unity 1981) guarantees the right of every citizen 'to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law' (article 13).

Beyond these principles, international instruments do not prescribe how voting procedures should be organized. It is up to the states to devise appropriate procedures that give effect to the right to vote. Importantly, article 25 of the ICCPR refers to 'the right and the opportunity' to vote, which clearly requires states to take positive measures to ensure that all eligible persons have the opportunity to exercise this right (Nowak 2005: 569). It should be well understood, however, that voting procedures alone do not make an election democratic. The reference to 'genuine' elections in international instruments also requires other elements, such as availability of political alternatives to voters, while respect for other freedoms (particularly freedoms of movement, association, assembly, expression and media) is essential to give voters a meaningful opportunity to exercise their right to take part in the government (see also the section on Free elections).

Equally important, it should be noted that voting procedures need not be identical in order to give effect to the international obligations discussed above. Indeed, a considerable variety of procedures exist also within the voting method described as 'conventional' in this Handbook. For example, the names of all competing candidates or parties may be listed in one officially printed ballot, as in Australia and Costa Rica, or each party may print its own ballot paper, as in Greece. Ballots may be cast through voting machines, through marking a paper with a pen or pencil, or, as in Indonesia (Indonesia 2017: article 353(1)), by puncturing the symbol of the chosen party or candidate with a nail. Ballots may be counted in polling stations where they are cast, as in South Africa, or transported to a counting centre, as in the UK. Even the paper ballot is not indispensable, as shown by The Gambia's unique system where voters cast glass marbles (BBC News 2021).

Compared to conventional voting, the implementation of SVAs may give rise to special challenges or require a rebalancing of competing principles.

Voting arrangements referred to in this Handbook as 'conventional' are widely recognized as capable of ensuring the right to vote in keeping with the internationally required principles. In the case of SVAs, such recognition may not be present to the same degree. Compared to conventional voting, the implementation of SVAs may give rise to special challenges or require a rebalancing of competing principles. Some guidance at the international level may be available, such as the recommendations on electronic voting developed by the Council of Europe (2017). Such guidance is limited, however, in part due to the idiosyncratic nature of SVAs, which makes standard-setting difficult or even undesirable. At the same time, a better understanding of the meaning and the interplay between the different internationally required principles involved may help SVA designers avoid potential controversies and legal challenges.

Universal suffrage

The principle of universal suffrage means that the right to vote should be provided to all citizens not only to specific groups. At the same time, this right is not absolute, and may be subject to reasonable restrictions, as indicated in the introductory sentence of article 25 of the ICCPR (United Nations General Assembly 1966). What constitutes a reasonable restriction is not a static notion. While the principle of universal suffrage has been invoked at least as early as the French Revolution (1789), at the time it did not entail the right to vote for

women, servants or waged workers (Nowak 2005: 576). The idea of democratic participation has evolved, gradually making such restrictions no longer socially acceptable in most countries.

This evolution continues. Disenfranchisement of all convicted prisoners was accepted as a reasonable restriction in many European states until recently. The ECtHR found this restriction to be in violation of the European Convention on Human Rights in 2005 (case of *Hirst (No. 2) v. the United Kingdom* (ECtHR 2005)). In 2011, the UN Human Rights Committee, which is in charge of interpreting the ICCPR and handling individual complaints, followed suit, and found the ban on the right to vote for all prisoners in Russia's Constitution contrary to the ICCPR (case of *Yevdokimov and Rezanov v. the Russian Federation* (United Nations Human Rights Office 2011)). Both human rights bodies consider that the law cannot automatically deprive everyone sentenced to imprisonment of their voting rights; rather, any such bans should be justified and linked with the conduct of the individuals concerned.

Another restriction of suffrage that has until recently been accepted as reasonable—that for persons with mental disabilities—has come under increasing pressure since the entry into force of the CRPD in 2006. The CRPD requires states to ensure that 'persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected' (United Nations General Assembly 2006: article 29.a). This obligation relates to people with intellectual or mental disabilities. The UN Committee on the Rights of Persons with Disabilities, which interprets the CRPD and handles individual complaints, has made it clear that depriving mentally disabled people of legal capacity (which is also a common legal ground for their disenfranchisement) is contrary to the CRPD (United Nations Human Rights Office 2014).

At the same time, the exclusion of juveniles from franchise is not questioned as unreasonable, and voting rights are most often granted from the age of 18. There are signs that advocacy and youth activism may ultimately lead to the shifting of this boundary to a younger age. For example, in Austria, the voting age was lowered to 16 in

2007, and Argentina did the same in 2012 (Schmidt 2018; BBC News 2012). The Council of Europe's Parliamentary Assembly called on member states to investigate the possibility of lowering the voting age to 16 for all elections, reasoning that this would contribute to greater representativeness of those elected, help young people define their position and role in society, further education for democratic citizenship, and be more conducive to a higher turnout (Resolution 1826 (2011) Council of Europe 2011).

The introductory sentence to article 25 of the ICCPR makes it clear that voting rights are to be guaranteed to *citizens*, rather than all individuals residing in the state. Disenfranchisement of non-nationals is thus deemed acceptable, although nothing prevents states from extending the franchise: for example, New Zealand gives the right to vote to permanent residents (New Zealand 1993). Within the European Union, the right to vote in local elections is granted to any EU national. At the same time, a restriction of the right to vote to those who have resided in the territory for some time prior to the election may also be deemed reasonable (*Hilbe v. Liechtenstein* (ECtHR 1999); *Gillot et al. v. France* (United Nations Human Rights Office 2002)).

The principle of universal suffrage leads to the introduction of SVAs when it comes to enfranchising groups who cannot be easily served by conventional voting methods.

Universal suffrage is the driving force of all voting arrangements, including SVAs. The principle of universal suffrage leads to the introduction of SVAs when it comes to enfranchising groups—such as prisoners or voters abroad—who cannot be easily served by conventional voting methods. Indeed, the enfranchisement of voters who, for a number of reasons, cannot make it to the polling station on election day is the objective that gave rise to many early SVAs—as illustrated by the examples of postal (absentee) voting in the US and proxy voting in the Netherlands (see Chapter 5). How this objective is met matters—including in view of the other key internationally required principles.

In this regard, the administration of certain SVAs may run counter to the universal right to suffrage if the legal or regulatory requirements to cast a valid vote through an SVA are unduly burdensome to voters. As the Office for Democratic Institutions and Human Rights (ODIHR) has noted, '[s]afeguarding 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' (OSCE/ODIHR 2020: 4).

Equal suffrage

Whereas universal suffrage is concerned with who is entitled to vote, the principal focus of equal suffrage is on the value of each vote, namely that each vote carries equal weight (Nowak 2005: 581). The UN Human Rights Committee provided the following explanation:

> The principle of one person, one vote must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.
> (United Nations Human Rights Committee 1996: para. 21).

'The principle of one person, one vote must apply, and within the framework of each State's electoral system.'

This explanation reflects an explicit rejection of any weighted voting system, where the vote of one person or group carries more weight than the vote of another. This concern attaches importance to how voters are distributed between the electoral constituencies numerically, so that there are no excessively high differences between the numbers of voters who elect one representative. For example, the Venice Commission, an expert body of the Council of Europe, has recommended that the deviation between the electorates of constituencies should not exceed 15 per cent, except in special circumstances, such as protection of a concentrated minority or a sparsely populated administrative entity (Venice Commission 2002: I.2.2.iv). In 1976, the Supreme Court of Japan was confronted with a case where, in the most populated district, a member of the parliament represented five times the number of voters as were represented in the least populated one. The Supreme Court held that the Constitution required that each vote must be given equal value and a gross difference of 1:5 was unconstitutional since no mitigating rationale was conceivable (Hasebe 2007: 301).

The Human Rights Committee's explanation above also indicates non-acceptance of drawing of constituency boundaries in a way

which dilutes the influence of one group at the expense of other groups—for example, targeting particular partisan supporters or minorities. Such practices became well known by the term 'gerrymandering' coined in the US. They remain an issue, even though the US Supreme Court declared its support for equal suffrage in 1963, when it articulated the principle of 'one person, one vote' (U.S. Supreme Court 1963: 369), and later in 1964, when it decided that the drawing of congressional electoral districts must ensure that, 'as nearly as is practicable, one man's vote in a congressional election is to be worth as much as another's' (*Wesberry v. Sanders*, U.S. Supreme Court 1964: 2).

In addition to the equal weight of the vote, it has been argued that the principle of equal suffrage also entails other dimensions of equality. For example, the Venice Commission maintains that, in the tradition of European electoral heritage, equal suffrage also encompasses equality of opportunity for electoral contestants. This relates to matters such as the provision of radio and television airtime, public funds and other forms of backing. The Venice Commission explained that, depending on the subject matter, equality of opportunity may be applied either strictly or proportionately to the contestant's electoral strength (Venice Commission 2002: I.2.3). The United Nations Human Rights Committee has not offered a similar interpretation of equal suffrage, although it has acknowledged that reasonable limits on campaign expenditure may be acceptable to ensure 'that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party' (United Nations Human Rights Committee 1996: para. 19).

For voters enfranchised through SVAs, issues related to equal suffrage may therefore arise if the weight of their vote is different from the weight of the vote exercised through conventional voting. For example, the Supreme Court of Japan held in 2005 that it was unconstitutional to allow Japanese nationals living abroad to vote only for parliamentary members elected by proportional representation, but not in single-member constituencies. The government's argument that it could not provide voters abroad with the information necessary for them to effectively participate in these elections was rejected as implausible in the global information

society (Hasebe 2007: 303). On the other hand, the Constitutional Court of Türkiye upheld in 1987 the provision that allowed Turkish citizens residing abroad to vote only for the political parties taking part in the parliamentary elections, but not for independent candidates. This judgment was not seen as problematic by the European Court of Human Rights (*Oran v. Turkey* 2014: para. 62).

Another issue worth considering is whether equal suffrage is affected by offering an SVA entitlement on an unequal basis without an objective justification. For example, in Hungary, the opportunity to vote by post is currently offered only to nationals residing abroad who do not have a registered address in the country. Many of the diaspora Hungarians residing in neighbouring states have never lived in Hungary and have been given citizenship through legislation adopted by the current ruling party (Fidesz). They tend to support the ruling party electorally. By contrast, overseas Hungarians who have a registered address in Hungary are often emigrants, and do not necessarily favour Fidesz. They are only given an opportunity to vote in person in a handful of polling stations set up abroad. It is difficult to see an objective justification for such different treatment of voters abroad, and commentators suggested that it is driven solely by partisan motives (Scheppele 2014). International observers at Hungary's 2022 parliamentary elections were critical of this unequal entitlement to SVAs, which in their view undermined the principle of equal suffrage (see also section on the principle of Non-discrimination).

Secret ballot

The requirement of a secret ballot is contrasted with the public ballot, whereby votes are made publicly by a show of hands or announced to all those present, so that a voter's choice is known. Examples can be found in the historical practices of many democracies. However, the history of public ballot is also replete with patterns of coercion, intimidation and bribery of voters. In contrast, contemporary international standards at both the global and regional levels show a strong consensus in favour of the secret ballot (in addition to the UDHR and the ICCPR quoted earlier, see also article 3 of the first protocol to the European Convention on Human Rights (n.d.) and article 23 of the American Convention on Human Rights (OAS 1969)), even though it also has its critics (e.g. Engelen and Nys 2013).

The secret ballot is said to include two distinct elements, which act as preventative measures against coercion, as well as vote buying and similar manipulative interference:

> The first is to make it possible for the voter to keep his decision private and avoid sanctions from those he *does not* want to know; the second is to make it impossible for the voter to prove how he voted to those he *does* want to know. (Rokkan 1961: 143, quoted in Teorell, Ziblatt and Lehoucq 2017: 534, emphasis added)

The conventional voting method aims to protect ballot secrecy in the controlled environment of a polling station. Of course, the extent to which this aim is achieved depends on the design of the voting procedures and how these are implemented. The history of secret ballot reform offers plenty of evidence that simply declaring ballot secrecy in the law was insufficient. Additional measures needed to be introduced to safeguard it, such as officially printed ballots listing all contestants (known also as 'the Australian ballot'), ballot envelopes, voting screens or booths (Teorell, Ziblatt and Lehoucq 2017). There is also a plethora of contemporary examples illustrating how flaws in electoral procedures are exploited by those who want to lift the veil of ballot secrecy, for example to obtain proof that voters are upholding their end of the vote-buying bargain (Joseph and Vashchanka 2022). All this suggests that the battle for the secret ballot is far from won in many countries even today.

The obligation to ensure a secret ballot may pose a serious challenge to some SVAs, as discussed in the following chapters. The United Nations Human Rights Committee has made it clear that this obligation requires states to take positive measures to ensure compliance in all voting procedures, specifically mentioning absentee voting as an example: 'States should take measures to guarantee the requirement of the secrecy of the vote during elections including absentee voting, where such a system exists' (United Nations Human Rights Committee 1996: para. 20). Various solutions exist to preserve the first dimension of the secret ballot mentioned above, making it possible for the voter to keep their decision private, even in non-controlled environments. With respect to the second dimension—making proof of the vote impossible for the voter who

wants to disclose it—effective solutions are more difficult. In relation to this, proponents of SVAs point out that the secret ballot was not devised as an end in itself but as a guarantee of the free expression of the voters' will. Therefore, the question is not whether the SVA offers better or worse guarantees of ballot secrecy compared to conventional voting, but whether these guarantees are sufficient to safeguard such free expression of the voters' will.

In its 2005 constitutional review of electronic voting measures, the Supreme Court of Estonia explained that the ability to change one's electronic vote at any time provided protection against the risk that an online vote would be subject to intimidation or cast in a non-secret manner. This feature therefore created a disincentive for those who may wish to coerce a voter's electronic vote, since a voter may confidentially change their vote later (Supreme Court of Estonia 2005: para. 30).

From an operational viewpoint, clear procedures and well-trained election officials are also important elements in preserving the secrecy of SVA ballots. 'Drive-through' or curbside voting, voting by mobile ballot box in hospitals and prisons, and voting in some special polling stations, particularly if they are not administered by persons with electoral administration experience (such as consular officials or military officers), can give rise to concerns about whether a voter at these sites has truly cast a secret ballot. Administrators will also require suitable equipment, including voting booths or portable voting screens to preserve secrecy at special polling stations and mobile ballot box sites. Partisan representatives, the media and neutral observers can all play a role in confirming that voters have the capacity to mark and cast their ballot in secrecy, and that officials are ensuring that voters may do so.

Clear procedures and well-trained election officials are important elements in preserving the secrecy of SVA ballots.

Free elections

The reference to free elections in the UDHR and the ICCPR is made in relation to both the voting procedure specifically and the broader notion of 'freely chosen representatives'. These references highlight the connection between the polling procedure and the environment in which it takes place. As mentioned earlier, one aspect of this connection is that voting procedures alone do not make an election free. The environment in which voters exercise their choice must

be free from violence, threats, compulsion, inducements and other manipulative influence by the state and non-state actors (Nowak 2005: 584). The exercise of other fundamental freedoms, including those of expression, media and peaceful assembly, is of particular significance for such an environment.

A procedure which provides adequate guarantees of ballot secrecy in one setting may be unfit for that purpose in another.

The electoral environment is relevant for the assessment of polling procedures. A procedure which provides adequate guarantees of ballot secrecy in one setting may be unfit for that purpose in another, because it fails to address context-specific challenges. For example, the lack of a prohibition against voters taking photos of their marked ballot is not seen as problematic in the Netherlands, but there was a clear need to introduce such a prohibition to counter vote buying in Mexico. In France, experience over the years has led to the general conclusion that proxy voting is less subject to electoral fraud than postal voting; in the UK, the opposite conclusion has for the most part prevailed. In Colombia, research suggested that voters would be better protected against retaliation for their choice if voting results were aggregated at a level higher than one polling station, particularly in small localities (Rueda 2017).

Also, the electoral environment can change in the same country over time. Processes that worked satisfactorily at one time may become less efficient or effective and, on occasion, may later be deliberately undermined. Procedures may be introduced using cutting-edge technology which later becomes outdated and can be superseded. When the fax machine first appeared, it could be used to enable votes to be cast from remote locations with a telephone connection, including by voters who would otherwise have been disenfranchised; with the advent of satellite and web-based communications, new mechanisms of inclusion with fewer disadvantages of lack of secrecy can replace its use.

All this supports the argument that making decisions about introducing or reforming SVAs should be informed by how the voting method fares in its specific context. Each type of SVA has different potential weaknesses—for example, voters may be more exposed to pressure to vote a certain way by a family member where postal or any other form of remote voting is used, which needs to be taken into consideration.

Non-discrimination

The principle of non-discrimination in the enjoyment of the rights guaranteed by article 25 of the ICCPR is incorporated by introductory reference to article 2 of the Covenant (United Nations General Assembly 1966), which prohibits distinction on the grounds of 'race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. This provision does not automatically render any difference in treatment discriminatory. Whether a distinction is permissible or discriminatory depends on whether the parties are in a comparable situation, there are reasonable and objective criteria for their different treatment, and the distinction is proportional in the given case (Nowak 2005: 46). Discrimination need not be intentional; laws designed to be fair to all may still have an unintended discriminatory effect requiring correction.

In relation to SVAs, this principle may call for an analysis of issues such as availability of the SVA to one group of voters but not to another. For example, in the example of overseas Hungarian voters discussed above, the voters who are in a comparable legal situation (residents abroad) are enfranchised using two different voting methods, one of which (postal voting) is much easier to access than the other (in-person voting in special polling stations). The criterion for the different treatment appears to be objective (the existence of a registered address in Hungary), but whether this distinction is reasonable is rather questionable. Indeed, the existence of a registered address in Hungary would reasonably serve as an additional factor for reliable voter identification and consequently facilitate providing access to postal voting for such voters; therefore, not extending this voting method to them bears strong indications of discrimination.

By contrast, there may be compelling reasons for citizens' entitlement to use SVAs to differ. For example, prior to the Netherlands' 2021 parliamentary elections, temporary legislative amendments were adopted in light of the Covid-19 pandemic, which extended postal voting to all in-country voters aged over 70. In previous elections, postal voting was only available to voters abroad. These amendments were challenged in court by a political party, which argued that they were discriminatory. The court rejected this claim. It reasoned that

the amendments did not affect the fundamental right to vote. All voters were entitled to exercise this right in polling stations, where additional sanitary safety measures were introduced. Additionally, early voting was made available to all voters, to take place on two days prior to the election day. The possibility to vote by proxy was also exceptionally expanded, enabling one person to serve as a proxy for up to three voters. The parliament considered extending postal voting to all in-country voters but did not do so due to concerns that the election administration would not be able to cope with such large numbers of postal ballots. In these circumstances, the court found the distinction made by the state in providing the option of postal voting only to elderly voters was justified (District Court of The Hague 2021).

In 2014, the ECtHR (*Oran v. Turkey*) rejected the argument that allowing Turkish voters abroad to cast their ballot only for political parties, and not for individual candidates, constituted discrimination. The Court considered that this limitation pursued legitimate aims, such as enhancing democratic pluralism while preventing the excessive and dysfunctional fragmentation of candidacies, and found it to be based on an objective and reasonable justification (ECtHR 2014a: paras. 62–66).

SVAs should be designed and implemented in a way that does not discriminate against any particular group.

SVAs should be designed and implemented in a way that does not discriminate against any particular group. For example, a programme of early in-person voting should be roughly equally accessible to all groups in a community. In the US state of Georgia, a report by a political scientist revealed that, in polling places where more than 90 per cent of active registered voters were minorities, the average minimum waiting time was 51 minutes; in districts where more than 90 per cent of registered voters were white, the average fell to 6 minutes (Somaskanda 2020).

4.2. **COURT DECISIONS**

Election-related issues are often taken to courts. In some countries, electoral issues may be litigated only after the election takes place, by way of a special petition against the declared result. Elsewhere, courts may also resolve disputes related to the electoral process

before the election day. The legal effect of court decisions differs among legal systems: in the 'common law' tradition, legislative acts and established case law precedents based on sufficiently similar facts are together binding on court decisions, while in other systems court decisions are binding only for the parties to the dispute, although they may subsequently be taken into account in other cases. These differences notwithstanding, the electoral issues brought to courts often bear similarities, because the same overarching principles and common features of electoral laws and practices arise in many democracies. These similarities make comparative analysis of electoral case law possible and worthwhile, including in relation to SVAs (see e.g. Driza Mauer and Barrat 2015).

In keeping with the separation of powers between the legislature, the executive and the judiciary, courts are generally wary of assuming the role of other branches of power. For instance, courts may play an active role in deciding *who* is entitled to vote, interpreting the meaning of universal suffrage and non-discrimination for excluded groups, such as prisoners. However, judges are reluctant to decide which voting arrangements are more appropriate in the specific conditions of different voters. Such issues tend to be deferred by national courts to the legislature and the executive, while international courts defer them to the national authorities.

Several examples in the preceding section have already shown that court decisions may have a major impact on SVAs. Courts may be called upon to decide whether particular voting arrangements meet the requirements of the general principles, including those discussed in the previous section. Courts may also resolve disputes regarding the meaning of and compliance with specific electoral law provisions in the context of a particular election, and ultimately decide whether election results are legally valid. The jurisdiction of international courts is limited to interpreting the provisions of specific international treaties. However, these internationally recognized principles are usually also incorporated in national constitutions and electoral legislation, and it falls on the national courts to interpret their application to different voting arrangements.

SVAs may call upon courts to consider electoral rights and the existing requirements in new ways, and to balance the competing

Measures designed to ensure SVA integrity may be challenged in courts as discriminatory measures that would make voting more difficult for certain groups.

principles. For example, providing the vote to persons with disabilities through curbside voting, or to the hospitalized or the incarcerated through mobile ballot boxes, may present novel questions to a court attempting to assess the secrecy of the vote. Measures designed to ensure SVA integrity, such as signature matching or stringent application and identification requirements, may be challenged in courts as discriminatory measures that would make voting more difficult for certain groups. The global Covid-19 pandemic has tested the capacity of the state to administer fair elections under emergency conditions and required many courts to weigh the resulting restrictions against constitutional requirements. In this section, only a few examples are provided to illustrate the importance of case law to the development of SVAs and the different issues that may be brought before the courts.

Extending the right to vote to excluded groups

Court decisions have extended the franchise to previously excluded groups, prompting the adoption of appropriate voting arrangements. As mentioned above, in the case of *Hirst (No. 2) v. the United Kingdom*, the ECtHR (2005) found that found that UK law, which disenfranchised every person convicted and serving a custodial sentenced, was contrary to the ECtHR. In this and similar subsequent judgments the Court maintained that bans on voting rights of prisoners are not acceptable unless they are justified and linked to the conduct and circumstances of the individuals. In another landmark case, *Alajos Kiss v. Hungary* (ECtHR 2010), the ECtHR found a violation of the right to vote with respect to the applicant who had been placed under guardianship on psychiatric grounds. The Court held that the automatic and general deprivation of the right to vote of persons placed under legal guardianship in the Hungarian Constitution was not in line with the ECtHR.

The Constitutional Court of Zambia in 2017 determined that, consistent with that country's Constitution, all lawfully detained persons had the right to vote (Constitutional Court of Zambia 2017: J32). In this decision, the Court went beyond the petitioner's request to allow prisoners appealing conviction or those on remand the right and opportunity to vote, noting that the Constitution empowered any citizen attaining 18 years of age with that right, and that the Court did not consider it appropriate to distinguish between prisoners

authorized to vote and those who are not (Constitutional Court Zambia 2017: J21, J31–J32). In Japan, the Supreme Court held in 2005 that the parliament negligently failed to make it possible for Japanese living abroad to participate in national elections until 1998, and that this denial of access to the ballot entitled plaintiffs to compensation from the state (Hasebe 2007: 303).

Ensuring the opportunity to vote for eligible voters

Courts may intervene to ensure that those entitled to vote have the opportunity to do so, including by accessing SVAs. For example, the Supreme Court of the Philippines ruled in 2006 that dual citizens who had reacquired their Philippines citizenship through a 2003 law were eligible to vote by absentee ballot overseas on the same footing as other Philippines nationals abroad. This group of voters did not need to meet Philippines residency requirements to do so (Supreme Court of the Philippines 2006). The Constitutional Court of South Africa ruled in 2009 that existing law limiting the right to vote from special polling stations abroad to narrow categories of electors should be expanded to all eligible voters who notify the Election Commission in time that they wish to vote at a special polling station (Constitutional Court of South Africa 2009: paras. 108–09).

Courts may intervene to ensure that those entitled to vote have the opportunity to do so, including by accessing SVAs.

The Constitutional Court of Korea in 2007 declared that Korean nationals based overseas should have the same right to register and vote by absentee ballot as those voters residing in Korea. 'Any technical problem in managing overseas election can be overcome by innovation of information and communications technology. Considering that Korean nationals abroad are able to access the information on candidates via Internet and other means, any technical problem in overseas election cannot be a reasonable excuse to strip the right to vote from Korean nationals abroad' (Constitutional Court of Korea 2007: 35).

In 1951, the Japanese Parliament abolished a postal voting system for voters with severe disabilities, on the grounds that this system was often abused. A person with a physical disability, who was denied access to the ballot following the abolition, sued the government, arguing that they were discriminated against on the basis of their disability. In 1974, the Sapporo District Court held that the abolition, and the subsequent inaction by parliament, were

unconstitutional. Following this defeat in court, the parliament resurrected the postal voting system (Hasebe 2007: 302–03).

The Supreme Judicial Court of the US state of Massachusetts found in 1983 that certain prisoners in the state were unfairly denied the opportunity to register or to vote, and called upon the state government to develop a system that would allow otherwise eligible prisoners the ability to register and vote. As the Court put it:

> Since it is possible to have a registration process for absentee ballots which protects against fraud and which ensures the integrity of the ballot, there is no basis for disenfranchising prisoners by failing to provide them with some form of registration procedure. The current rule results in a totally arbitrary loss of the right to vote for some prisoners, but not others. For example, those prisoners incarcerated in the municipality of their domicile are able to register, and thus to vote, while prisoners from a neighboring municipality may not. Prisoners who reached their majority and have registered prior to entering prison may vote, while those prisoners who reach majority in prison, or who previously were uninterested in exercising their right to vote, may not.
> (*Cepulonis v. Secretary of the Commonwealth* 1983: 937)

More recently, in Croatia the Constitutional Court overturned a prohibition on voting by voters diagnosed with Covid-19, citing the improper denial of these citizens' constitutional and legal right to suffrage. These voters were able to exercise their right to vote in July 2020 through a combination of mobile voting and proxy voting methods (Heinmaa and Kalandadze 2021: 28; Constitutional Court of the Republic of Croatia 2020).

These cases can be compared with the more cautious approach of international courts, such as the ECtHR, which are reluctant to interfere in determining the appropriateness of voting arrangements for particular groups of eligible voters. For example, in the case of *Sitaropoulos and Giakoumopoulos v. Greece* (ECtHR 2012) the applicants argued that Greece had the obligation under the ECtHR to enable its citizens to exercise their right to vote from abroad. The

ECtHR ultimately disagreed, holding that there was no legal obligation for states to make arrangements for eligible voters to vote outside their home country. The Court mentioned that, when countries make arrangements for the exercise of expatriates' voting rights, these can take a variety of forms, including polling stations set up abroad, postal voting, proxy voting, and e-voting.

In the case of *Toplak and Mrak v. Slovenia* (ECtHR 2021), the applicants, who had muscular dystrophy and used electric wheelchairs for mobility, argued before the ECtHR, among other issues, that Slovenia's decision to discontinue the use of voting machines in 2017 deprived them of the possibility to cast their votes independently and was therefore discriminatory. The Court did not agree with this argument. It noted that there was no consensus among the European states that voting machines were a requirement for the effective exercise of the voting rights by persons with disabilities. The Court also pointed out that, because assistance to persons with disabilities may take a variety of forms, the decision regarding the use of voting machines for that purpose was to be made primarily by the national authorities.

Application of general principles to SVAs

In one of the best-known judicial decisions on electronic voting, Germany's Constitutional Court in 2009 declared unconstitutional the e-voting regulation and the use of e-voting machines in the parliamentary elections of September 2005. The Court concluded that the constitutional principle of the public nature of elections means that each voter must be able to understand the key steps in the elections and verify reliably that their vote has been recorded truthfully—without any special prior technical knowledge. This requirement has effectively stopped any effort to introduce e-voting in Germany (Seedorf 2015).

The Supreme Court of Estonia has considered whether the conditions for those who vote online violate the principle of 'uniformity' in voting, since—unlike paper ballot voters—online voters in Estonia may change their vote before election day. The Court found that voting online does not constitute unequal treatment that rises to the level of a constitutional violation (Supreme Court of Estonia 2005: paras. 22–24). The Court noted: 'The principle of equal treatment in the context

of electing representative bodies does not mean that absolutely equal possibilities for performing the voting act in equal manner should be guaranteed to all persons with the right to vote' (Supreme Court of Estonia 2005: para. 24).

Compliance of electoral procedures with the legal requirements

Austria's Constitutional Court ordered in 2016 to void and re-run the run-off presidential election. Reviewing extensive amounts of evidence, the Court found numerous infractions regarding the premature counting of absentee votes, violations regarding electoral officers required to be present at the count, and other irregularities, contrary to the electoral law's standards and the Austrian Constitution's principle of the secrecy of the ballot. The Court, however, did not find evidence of electoral fraud. The decision to void and re-run the run-off election hinged on the fact that the total number of ballots counted in an illegal manner exceeded the margin of the leading candidate's victory. As the Court noted:

> The purpose of the statutory provisions governing the election procedure is to rule out the possibility of abuse from the outset. The electoral authorities play a central role in this context: their collegiate organization … facilitates mutual control which is to ensure that the electoral principles are observed and no illegal influence on, or shift in, the election result takes place.
> (Constitutional Court of Austria 2016: para. 501)

Ghana's Supreme Court held in 2016 that the results of the early, special voting offered to certain election and security personnel for Ghanaian elections should not be announced until the 'close of the polls' on election day itself, and not at the close of polls on a designated special voting day (Supreme Court of Ghana 2016: 5). The Court agreed with the Election Commission that announcing these early results could jeopardize the secrecy of the ballot for some special voters and could also improperly influence the election (Supreme Court of Ghana 2016: 8). The Court expressed its view that the execution of special voting measures, including the storage of ballots before election day and the counting on election day

conformed to the Constitution and Ghanaian law (Supreme Court of Ghana 2016: 8).

The Madras High Court in the Indian state of Tamil Nadu ruled that the Election Commission of India had the jurisdiction and the authority to notify and provide guidelines for postal voting in that state in 2021 for groups such as voters over 80 years of age, Covid-19 patients, persons with disabilities, and those who provided essential services. In rejecting a party's claims that the Commission lacked this authority, the Court noted that the Commission had a plenary authority to do so under the Indian Constitution and that rules enabling the Commission to conduct postal balloting for these groups did not constitute an excessive delegation of authority to the Commission (Election Commission of India 2021; Imranullah 2021). The Court did add that, because this is a new procedure, it will remain to be seen whether postal voting as implemented by the Commission may result in rights violations, in which case the SVA 'process may be more refined and attuned to the geography and the climate' of the jurisdiction in later elections (Election Commission of India 2021; Imranullah 2021).

The ECtHR found in 2014 (*Karimov v. Azerbaijan*) that Azerbaijan had violated both the ECtHR and its own national law in creating special polling stations for military personnel during parliamentary elections in 2005. Although the national law allowed for special polling stations for military use under certain narrow exceptions—only if there were more than 50 military personnel outside populated settlements and the nearest ordinary polling station was more than one hour away by public transport—the Court found that two special military polling stations did not meet that exception (ECtHR 2014b: paras. 47–50). The Court took note that international observers were critical of the role of the Ministry of Defence in overseeing these polling stations and the lack of transparency within these stations (ECtHR 2014b: paras. 23, 40, 49).

4.3. **PRACTICAL CONSIDERATIONS**

The preceding sections highlight the importance of compliance with international standards for electoral legal frameworks, including

those governing the use of SVAs. Aside from these substantive concerns, there are also a number of practical considerations for the legal frameworks on SVAs. In particular, it is worth emphasizing the role of the legislative process, stability of the legal framework, consistency of regulation, and clarity of legal drafting.

Citizen engagement with and input into the development of laws and regulations establishing SVAs may contribute to an SVA's legitimacy and acceptance.

The legislative process

The use of SVAs should attract broad political consensus. To this end, the legislative process of introducing or changing SVAs should offer sufficient opportunities for consultations with the public and among the stakeholders. Citizen engagement with and input into the development of laws and regulations establishing SVAs may contribute to an SVA's legitimacy and acceptance. In this regard, the OSCE's Copenhagen Document calls for all legislation, 'adopted at the end of public procedure', and regulations, to be applicable once published (OSCE 1990: para. 5.8; OSCE/ODIHR 2020: 8). Political actors and other stakeholders who feel that they have been excluded or not consulted in the process may be more inclined to challenge SVAs in courts or take political action such as boycott, which may ultimately threaten the credibility and legitimacy of the electoral process.

Poland offers a recent negative example in this respect. During the Covid-19 pandemic the ruling party attempted to adopt legislation to conduct the 2020 presidential election entirely by postal voting, without building consensus on this initiative with the political opposition and other stakeholders. The idea was eventually dropped when the risk of a failed election became real due to organizational deadlocks and potential boycott by the leading opposition parties. Postal voting was offered more widely than before, but as a supplementary arrangement, in addition to conventional voting (Vashchanka 2020).

When groups to be served by an SVA (e.g. marginalized groups, communities living in post-conflict environments) have an opportunity to provide feedback and participate in the law-making process, the accompanying openness and engagement may increase the likelihood of acceptance of SVA-related laws. Citizens, CSOs and other participants may have good suggestions and can help ensure a more inclusive law-making process benefiting from more diverse

viewpoints (ParlAmericas 2018: 10). Citizen involvement may be particularly crucial in instances where lawmakers are forced to act quickly and close to election day—although it was often very limited in the adoption of SVA reforms during the Covid-19 pandemic era.

Lawmakers can build support for SVA measures if they demonstrate that they have meaningfully and conscientiously considered feedback—even if that feedback is ultimately rejected—to ensure that all participants in the process feel heard. A 'citizen review committee' or other group of laypersons can help ensure that citizen input remains present as an SVA is implemented and later evaluated. Decision makers should consider that an SVA may be unsuccessful in the absence of active support from citizens. For example, the Government of Canada stated: 'Canadians' attitudes and opinions about online voting is an important consideration regarding whether the technology should be used, or trialled in Canada. Public support for, and willingness to make use of, the voting reform is necessary' (Government of Canada 2017).

A 'citizen review committee' or other group of laypersons can help ensure that citizen input remains present as an SVA is implemented and later evaluated.

Stability of electoral law

The way that voters experience elections matters for the social significance and value attached to the electoral process. Some authors have even expressed scepticism about the increase of early and postal voting, arguing that it dilutes the communal experience of polling day (Orr 2015). At the very least, decision making on SVAs needs to acknowledge the importance of stability of the legal framework for developing and maintaining the democratic tradition.

In the US, the Purcell principle, based on a 2006 US Supreme Court decision *(Purcell v. Gonzalez*), states that there should be a presumption against court orders that impact on electoral laws close to the election day, since doing so may confuse voters and depress turnout. The Venice Commission, an expert body under the Council of Europe, has advised against changes in the fundamental aspects of the electoral legal framework less than one year prior to the election (Venice Commission 2002: II.2.b). While this offers a measure of stability, efforts should also be made to avoid frequent changes in voting procedures from one election to the next. Piloting and gradual introduction—especially with novel arrangements such as electronic

voting—serves to build trust in the SVA (Wolf, Nackerdien and Tuccinardi 2011).

Rules governing SVAs may be included in national constitutions. For example, the Constitution of Austria (1920, reinstated 1945, revised 2013) (Republic of Austria 1920: article 26(6)) mandates the right of a citizen to a postal ballot for cause in case of absence. The Constitution of Liberia (1986) (Republic of Liberia 1986: article 80I) guarantees the right to vote 'in person or by absentee ballot' for citizens. The Constitution of the Philippines (1987) (Republic of the Philippines 1987: article 5, section 2) upholds the right of citizens abroad to vote absentee. When included in a country's constitution, provisions governing SVAs evidence the importance of ensuring effective exercise of the right to vote. Constitutional drafters, however, may wish to ensure that constitutional provisions governing voting arrangements are not overly prescriptive: if there is a need to modify an SVA in the future, enacting a constitutional amendment may be a time-consuming process.

Amendments that significantly change procedures about SVAs at a late stage may cause confusion among voters, reduce turnout, and affect the perceived fairness and credibility of the revised SVA.

More often, provisions governing SVAs are embedded in statutory acts and electoral regulations. This allows election decision makers more flexibility, as laws can generally be amended in a legislature, and regulations after following a procedural process. Electoral laws may require special majorities, but these will in almost any case be less demanding than the ones needed for constitutional reforms. Recent history has shown that this flexibility could also become an asset in an emergency such as the Covid-19 pandemic. The disadvantage of flexibility, however, is the temptation to change key laws or other provisions governing SVAs too close to election day. Amendments that significantly change procedures about SVAs at a late stage may cause confusion among voters, reduce turnout, and affect the perceived fairness and credibility of the revised SVA.

Consistency of regulation

Regulations with respect to SVAs should be consistent with the rules on other aspects of the electoral process, including other voting procedures. This is particularly relevant for electoral deadlines and for allowing those on the receiving end of the regulation sufficient time to perform the necessary actions. Special care should be taken to ensure that voting procedures for additional voting arrangements,

such as early voting and postal voting, are synchronized with the voting procedures by the conventional method. For example, in Kosovo, the election law provides that postal ballots should be received by the Central Election Commission prior to election day. The meaning of this provision was disputed by some political actors, and the Supreme Court ordered that ballots dispatched before the legal deadline should be included in the vote tally (EU EOM 2019).

Regulations adopted by the EMB or similar secondary legislation may be sufficient for introducing an SVA on an experimental basis. However, the decision to incorporate an SVA into the electoral framework on a wider scale or on a permanent basis should be regulated by a legislative act, with the amount of detail comparable to the conventional voting method. Consistency of regulation can often be improved by following up on election observers' recommendations and the results of EMBs' 'lessons learned' reviews after the conclusion of the electoral process.

The decision to incorporate an SVA into the electoral framework on a wider scale or on a permanent basis should be regulated by a legislative act.

Clarity of legal drafting

Clarity of legal drafting makes laws and regulations more accessible to the public and facilitates their uniform application. Every effort should be made to make the rules clear and understandable. Good practices are available to make the language of laws and regulations more user-friendly. For example, the New Zealand Parliamentary Counsel Office (n.d.) developed a Plain Language Standard, accompanied by a checklist and principles of clear drafting. The latter include practical guidance on organizing material, using headings and sections, and advice on plain writing style.

Implementation of the electoral legal framework relies on the professionalism of the election administration, which is greatly aided by sufficiently detailed sets of instructions for those in charge of implementing electoral procedures. Good instructions do not replace training, but they serve as important reference material to which polling staff may turn in case of difficulties. To fulfil this purpose, instructions should not replicate laws and provide only narrative text. Rather, the aim of instructions should be to offer step-by-step guidance, accompanied by pictures and process charts wherever possible. Developing such guidance well in advance allows time to test it for clarity with groups of poll workers.

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Chapter 5

TYPES AND TYPOLOGIES OF SVAS

This chapter focuses on categorizations of different types of SVAs. As already noted, this is not an easy task, as countries use many different terms to describe a variety of SVAs. The term 'absentee', used to describe a voting process or a ballot, is a case in point. 'Absentee voting' and an 'absentee ballot' are defined differently in different countries. Different jurisdictions may deem ballots as 'absentee' if cast in person at special polling stations, through mobile ballot boxes, in person or by mail from abroad, by mail in country, or in other contexts outside of a conventional polling site on election day. Different jurisdictions may allow for absentee voters to mail their completed ballots; physically drop off ballots at a certain state office; deposit their ballot in a secure dropbox on or before election day; or present their ballot to a polling station on election day. This Handbook therefore chose not to consider absentee voting as a distinct SVA but more as a general term covering different types of SVAs depending on the country.

Countries use many different terms to describe a variety of SVAs.

The section below attempts an initial classification of SVAs using key patterns that may be useful to highlight important aspects of every mechanism. The chapter continues by distinguishing and describing, noting the concrete terms used to refer to them in different countries. See Chapter 2 on SVA concept and terminology for further details.

Every SVA is analysed following the same structure. It begins with the concept of the relevant SVA, together with relevant data indicating its global use. The analysis assesses policy issues that are attached to every specific SVA and determines later how voter registration and authentication are addressed. Challenges related to the election

administration in general, and particularly for voting and counting, are discussed. The section also covers ballot integrity per SVA, and how election observation needs to customize. The analysis is supplemented with some case examples.

5.1. **SVA CLASSIFICATION**

SVAs can be classified in different ways depending on the criterion chosen. Each classification will highlight different aspects of the voting mechanisms and will help to show how they can improve the electoral process.

Voting location (controlled environments or uncontrolled environments)

The main distinction here relates to the fact that certain SVAs are implemented under controlled environments, usually a polling station, and others are not. In some contexts, controlled environments may be deemed essential for ensuring electoral rights and are therefore an important factor to consider.

Controlled environments

Some SVAs, such as assisted voting or proxy voting, take place in the same controlled environment as conventional voting but with other differences, such as the intervention of a third party helping or even acting on behalf the voter.

Other types of SVAs will use controlled environments but not those of conventional voting. Early voting, for instance, entails the intervention of public officials who will supervise how the ballot is cast in some way. The setting may vary widely, from self-service voting kiosks to almost regular polling stations. Likewise, special arrangements such as mobile ballot box voting or procedures for incarcerated voters can be considered as controlled environments.

Uncontrolled environments

Some SVAs, such as postal and online voting, allow the voter to mark the ballot with no measures protecting the secrecy of the act of voting or the freedom of choice for the voter. There is no direct

official control and oversight of the voting process, which takes place in an uncontrolled environment.

Note: Any classification requires decisions to be made that might not fit all real examples. This is especially true for Table 5.1 but also applies to Tables 5.2, 5.3 and 5.4. One criterion was used to categorize the types of SVAs most frequently implemented, but this does not rule out that certain SVAs could fall under several categories. For instance, while online voting is normally implemented before election day, cases exist where it is also used on election day itself.

Voting time/moment (on election day or not)

While some SVAs, such as proxy, assisted and homebound voting, may take place on a single election day, others need more days

Table 5.1. **SVAs in controlled and uncontrolled environment**

	Special voting arrangement	Controlled environment	Uncontrolled environment
1	Assisted voting	x	
2	Early voting	x	
3	Mobile ballot boxes	x	
4	Multi-day/staggered voting	x	
5	Online voting		x
6	Polling stations abroad	x	
7	Postal voting		x
8	Provisional voting and tendered ballots	x	
9	Proxy voting	x	
10	Special polling stations	x	
11	Voting outside the precinct	x	

Source: Developed by the authors.

Table 5.2. **Election day and non-election day SVAs**

	Special voting arrangement	Election day(s)	Not on election day
1	Assisted voting	x	
2	Early voting		x
3	Mobile ballot boxes	x	x
4	Multi-day/staggered voting	x	
5	Online voting		x
6	Polling stations abroad	x	x
7	Postal voting		x
8	Provisional voting and tendered ballots	x	
9	Proxy voting	x	
10	Special polling stations	x	
11	Voting outside the precinct	x	

Source: Developed by the authors.

to properly accomplish their functions. Logistic constraints or the necessity to ensure a longer timeframe to certain voters would be the main reasons. Postal voting and of course early voting follow this pattern. Out-of-country voting may involve both options. Some SVAs would be agnostic regarding this criterion, such the one covering multi-day elections or the modification of election days.

Custody (EMB or third parties)

The chain of custody of electoral material, namely ballots once cast, is a crucial element for ensuring electoral integrity, but SVAs follow different patterns when implementing this principle. While some of them are no different to conventional voting—with the same ballot box and the same procedures being followed once a vote is cast—others need additional mechanisms that may involve third parties carrying ballots and other sensitive material from the voter,

Table 5.3. **SVAs with need for specific chain of custody**

	Special voting arrangement	Chain of custody required	No specific chain of custody
1	Assisted voting		x
2	Early voting	x	
3	Mobile ballot boxes	x	
4	Multi-day/staggered voting		x
5	Online voting	x	
6	Polling stations abroad	x	
7	Postal voting	x	
8	Provisional voting and tendered ballots	x	
9	Proxy voting		x
10	Special polling stations		x
11	Voting outside the precinct	?	?

Source: Developed by the authors.

who will have handed them over, to the relevant electoral authority. Postal voting is a very clear example. Other SVAs may need similar arrangements, such as out-of-country or online voting, the latter involving significant IT solutions acting as proxies. How the electoral material is handled by third parties may cause concern as there will not be the same level of direct public scrutiny. The acceptance of such measures will therefore depend on the social and political context.

Scope (SVAs' potential to become common/universal voting mechanisms)

Finally, consideration may be given to the potential reach that SVAs may achieve. While some SVAs are clearly tailored for use by particular groups or for specific conditions, others may have a

broader scope and serve a large number of voters. The spread of use is not in itself an indicator to determine whether a particular mechanism is to be considered as an SVA, but it is an important factor in terms of assessing the actual impact of SVAs on the electoral process. For example, both postal and online voting have the potential to be used by large groups of voters and even to replace conventional voting entirely: universal postal voting has been adopted in some US states (see 5.8: Postal voting) and was also used in Bavaria (Wagner 2020) during the pandemic. On the other hand, the scope of some other SVAs, such as assisted voting or homebound voting in a mobile ballot box, is much more limited because the target group forms only a limited part of the whole electorate.

Table 5.4. **General and limited SVAs**

	Special voting arrangement	General SVA	Limited SVA
1	**Assisted voting**		x
2	**Early voting**	x	
3	**Mobile ballot boxes**		x
4	**Multi-day/staggered voting**	x	
5	**Online voting**	x	
6	**Polling stations abroad**		x
7	**Postal voting**	x	
8	**Provisional voting and tendered ballots**		x
9	**Proxy voting**		x
10	**Special polling stations**		x
11	**Voting outside the precinct**		x

Source: Developed by the authors.

5.2. **ASSISTED VOTING**

Concept

Assisted voting is one of the earliest modern forms of SVA. It developed because of the introduction of the secret ballot, which in its early forms required voters to write the name of their chosen candidate on a sheet of paper. This raised the question of how an illiterate person could vote. The procedures introduced in France in 1831 allowed them to ask another voter to write the ballot on their behalf (Kent 1937: 96).

This SVA includes procedures for voters who cannot cast their ballot autonomously and require the active assistance of another person. However, not all types of assistance are deemed to be assisted voting. Tools such as magnifiers, Braille ballot jackets and adapted booths enable the voter to make their choice autonomously. Assistance covers actions that the voter would not be able to perform alone: the core element is typically, but not always, the marking of the ballot itself. The voter communicates their choice to another person, who marks the ballot on their behalf. Previous and subsequent actions, such as receiving or folding the ballot or putting it in the box, may also be carried out by the third party.

The electoral law or regulations may specify who may be asked to perform the act of assistance. In many countries, such as Bulgaria, Mexico, Mongolia and Pakistan, assistance may be provided only by a person who accompanies the voter as a person they trust. Other countries, for example Germany, the Philippines and the UK, also allow the voter to be assisted by a polling official. South Africa provides that a polling official assists an illiterate person, while a person with a disability may nominate a trusted person. Canadian electoral law empowers polling officials to employ interpreters to help communication with voters.

A clear distinction should also be established between assisted voting and proxy voting. A third party is also involved in proxy voting, and they cast a ballot on behalf of the actual voter, but both persons are not present at the same time at a polling station. A proxy voter fully assumes the role of the voter, whereas a person assisting a voter intervenes only when it is needed. Self-restraint should apply: if,

for instance, assistance is only needed to fold the ballot, the person assisting should not seek to go beyond the minimum necessary.

Assisted voting may be combined with the use of another type of SVA. In Austria, mobile ballot box voting specifically recognizes that some voters who cannot reach the polling station also need assistance with voting (Austrian Government n.d.). In India, a postal voter who is illiterate, blind or physically infirm and is not able to mark their ballot paper and sign their declaration of identity may seek assistance from a magistrate or other specified official (India, The Representation of the People Act 1951).

Finally, some states have developed off-site methods of voting for persons who need assistance, such as curbside or drive-through voting.

Like other SVAs, assisted voting enhances accessibility, and thereby the legitimacy of the overall electoral process.

Like other SVAs, assisted voting enhances accessibility, and thereby the legitimacy of the overall electoral process. The system will always pave the way for easier political participation of certain groups of voters. In general terms, most countries allow assisted voting, though regulations vary significantly. Instances exist where assisted voting is only admitted as a de facto procedure with no legal cover.

Policy issues

Assisted voting is not financially burdensome in terms of new equipment or logistics, but both voter information and staff training are crucial. Voters who may require assistance need to receive accurate information on the procedure to follow for casting the ballot. Such vulnerable voters should feel confident enough to go to the relevant polling station and ask for this form of support to vote. Moreover, voters will need to make some preparations as, in some countries, they will have to be accompanied by a trusted person. Without accurate information, voters may choose to stay at home rather than having to face an unknown procedure, where their freedom to vote and secrecy of ballot may not be guaranteed. This could partially undermine electoral legitimacy. Making sure that voters are informed of their options when it comes to voting requires a well-designed mid- and long-term information strategy that targets specific groups, customizes messages and makes the process

easy to understand. Such a campaign should be conducted well in advance of the election day, as well as during non-election periods.

Polling staff should be aware of specific voting assistance procedures that certain voters may need. Requests for such assistance should not come as a surprise or be seen as a burden. Instead, polling staff should behave proactively, with training provided to embed this approach. The strategy will vary depending on how polling staff are recruited (e.g. partisan, randomly), but the outcome will always be the same—a team fully aware of what assisted voting is, capable of delivering a professional service and ready to identify potential abuses.

Polling staff should be aware of specific voting assistance procedures that certain voters may need.

In legal terms, the UN Convention on the Rights of Persons with Disabilities (CRPD) establishes a general international legal framework where the political participation of such citizens is promoted and guaranteed (United Nations General Assembly 2006). This instrument deals with all types of disabilities, including cases where autonomous voting is not feasible. For example, people physically incapable of marking a ballot or others, such as those visually impaired, who have to use assisted voting because no alternative autonomous voting methods exist.

Importantly, illiterate people may take advantage of assisted voting too. It will depend on the ballot layout and how to mark it. While some electoral systems facilitate an autonomous casting of the ballot for these citizens, others require a minimum literacy to understand the content of the ballot. Among the former, numbers, colours or symbols, for instance, are typically used to identify candidates, and political parties includes these identifiers in their campaigns. As a result, illiterate voters will need no assistance to mark the ballots. However, such approaches to promote participation may reduce the amount of information provided to voters and devalue the content of an electoral campaign. On the other hand, ballots with some text, even simple information such as the names of candidates or political parties, may require illiterate voters to be assisted by third parties.

Particular attention should be paid to persons with mental disabilities. The CRPD is categorical in stating that these persons should not be disenfranchised, neither by judicial interdictions, which

is often the case, nor by the lack of adequate procedures for casting the ballot, namely suitable SVAs. In this regard, the CRPD advocates adjusted mechanisms that will vary depending on the needs and specific profiles of people to be served. In any case, while some of these voters could vote autonomously, others would need assisted voting. Assisted voting will not be suitable when the voter is not able to communicate their choice.

Assisted voting should be anticipated by the law, mainly because it may potentially compromise core principles of the electoral process, such as the secrecy of the ballot. As it involves potential exceptions to these principles, the law should cover these. Likewise, to prevent possible abuses, the law may need to stipulate certain conditions, such as who can assist. In particular, it is advisable to prohibit assistance by partisan representatives, in order to prevent a possibility of misuse. Assistance by party agents to voters who pretend to be illiterate has been known for a long time to be part of vote-buying schemes.

In terms of planning, assisted voting has no major impact. Beyond voter education and training strategies, no further electoral planning is needed. Instances of assisted voting will spread across polling stations, but they can be performed without supplementary organizational burdens.

Election administration

The general structure of the election administration will not change due to assisted voting. No new positions will be required. However, as already noted, polling staff should receive specific training and, in some countries, they will be providing assistance to voters who need it. The workflow within polling stations should anticipate that polling staff will occasionally have to leave their usual duties to provide assistance to voters. Such an added task should not disturb normal voting procedures: the general layout of the polling station and distribution of tasks should have taken into consideration the potential instances of assisted voting.

Voter registration and identification

Voter registration can ease assisted voting, and certain countries, such as Honduras, flag voters who may require assistance (EU

2022: 30). While the intention is to put in place certain measures in advance—such as making polling stations accessible (e.g. with ramps) where voters with certain impairments or disabilities are registered, or anticipating the number of potential homebound voting petitions or the accurate distribution of Braille ballot jackets—assisted voting, as considered in this Handbook, will not lead to taking advantage of this advanced voter database. As noted above, assisted voting requires specific measures to be taken in advance—such as full and fair cooperation when a request is made by a voter.

Ballot integrity

Ensuring secrecy and that the ballot is cast as intended are two crucial challenges for any assisted voting, but in essence assisted voting is not compatible with either principle. Once it is accepted that a person has to assist another with casting a ballot, a trade-off is also assumed: this person will know what the voter's choice is and, in some cases, may be able to alter that choice, manipulating the ballot without the voter's consent and awareness. Obviously, this practice will be illegal, and ordinary sanctions on tampering with a vote may apply whenever it is identified, but the procedure of assisted voting as such poses barriers to this external monitoring. Essentially, assisted voting relies on a trusted person, and the system admits that such a person could tamper with the procedure. This risk is accepted for the sake of making voting more accessible and increasing the legitimacy of the overall process.

Voting and counting

Counting does not require specific arrangements. Once the ballot is cast, either with assistance or not, it is no longer tracked and receives the same treatment as all other ballots. Assisted procedures apply to the voting phase, not to the counting one.

Deciding who can assist voters is a common concern in all electoral frameworks. While a relative or a trusted person could be a good solution, some countries allocate these tasks to polling staff members to discourage potential 'family voting'—that is family members voting together in breach of secrecy. However, the concept of polling staff providing assistance is no less controversial, mainly in certain contexts where there is low confidence in the electoral administration and in politics in general. Moreover, beyond the

Box 5.1. **Integrity measures for assisted voting**

- Voter education is crucial to raise awareness on this option. Mid- and long-term well-conceived information strategy targeting specific groups with customized messages is necessary.
- Training of polling staff to achieve a team fully aware of what assisted voting is, capable of delivering a professional service and ready to identify potential abuses.
- The legal framework to establish conditions for the use of assisted voting regarding, in particular, who can assist and on behalf of how many voters.
- Special attention to be paid to illiterate voters, who may need assistance depending on the ballot's layout, and those with mental disabilities, who may need individual voting accommodations according to their needs.
- Voting flow and staff within polling stations to be gauged considering the average amount of voters likely to need assistance.
- Assisted voting to be considered as an exceptional procedure which implementation will only be admitted when absolutely necessary.
- Party agents and observers to be well trained so they are fully aware of the intricacies and usual challenges of assisted voting.

political context, a voter may not feel comfortable if a person—either unknown or, worse, with whom a bad rapport exists—is to assist them regardless of their own preference.

Along the same lines, restrictions may be imposed in terms of how many voters can be assisted by a single person: if the same person assists many voters, this may suggest fraud. A specific form may exist to record the name of the voter and who was assisting them. Another usual restriction consists in limiting people to assist voters registered in the same polling station or, when the task is assigned to polling staff members, requiring two persons to assist a given voter. While there would be more guarantees, there may be a danger that the normal workflow of the polling station could suffer if there are many instances of assisted voting.

In general terms, assisted voting should be considered as an exceptional procedure, to be implemented only when absolutely necessary. Polling staff should be instructed to discourage and even avoid cases where assisted voting is not totally necessary. A balance is to be sought between proactive actions that promote assisted voting as a way to enhance accessibility, and a cautious approach

that identifies and avoids abuses. If a voter is assisted by a member of their family, it is more difficult to determine whether a person really need assistance.

Observing

Any assisted voting mechanism has a greater propensity to abuse, as the procedure deals with vulnerable persons who require external support, which always entails risks. This is why party agents and observers in polling stations have a key role to play when assisted voting is implemented. While close attention should be paid when assisted voting happens, observers should be careful not to disturb the voter unnecessarily when casting the ballot. Both party agents and observers should be trained so they are aware of the intricacies and usual challenges of assisted voting. They should be ready to identify abuses in terms of:

- Poor implementation of the procedures leading to breaches of the freedom of the voter. While the secrecy of the vote, as noted above, cannot be protected for reasons of accessibility, freedom of the voter is paramount in this procedure. A voter who requires assistance can establish autonomously what their political choice is. The person assisting should only act as a notary: they should be informed about the choice and mark, and even cast, the ballot accordingly. Observing whether abuses exist and the freedom of the voter has been respected is not easy as the procedure will normally take place in the secrecy of booths, but there will be indications of suspicious behaviours.

- Breaches of procedures may also include instances of discriminatory treatment with unjustified delays or derogatory comments. For instance, polling staff members could dissuade voters who require assistance from asking for it. Voters may feel unwelcome and even humiliated in the polling stations. These behaviours are easier to detect as they are likely to take place openly in front of other stakeholders. Observers should exercise caution when establishing whose actions are appropriate, the voter's or the polling staff member's.

- Other electoral manipulations of the procedures may take place, with 'assistance' provided to voters who do not need it, or biased

support provided by partisan agents. Again, observation is crucial but also very difficult given the challenge of gathering conclusive evidence in some cases of abuse.

Country example: Ireland

Irish legislation, as in many other countries, contains specific provisions regarding assistance with voting. They are aimed at citizens with visual impairments, a physical disability or literacy constraints. While the general principles remain the same, there are some nuances that reflect the cautious approach taken regarding this exceptional mechanism.

Procedures stipulate how to assess whether a person needs assistance—an important first step. Legislation foresees that the presiding officer of the polling station, together with party agents, accompany the voter 'to a part of the polling station where a conversation at a normal volume cannot be overheard' (Citizens Information Ireland 2022). A temporary suspension of the voting procedures could also be approved while assisted voting is taking place.

The voter should then instruct the presiding officer how the ballot should be marked and the presiding officer, with the supervision of the party agents, act accordingly. To prevent potential abuses, voting instructions cannot be handed over in writing. While such a measure could pose certain burdens to voters willing to express what their choices are, this limitation pays attention to potential abuses that voters needing assistance could be exposed to. It is therefore a trade-off. Both polling staff assisting the voter and party agents witnessing the procedure are required by law to keep the information secret.

Finally, assisted voting by the polling staff cannot take place shortly before the closing of the voting day, when those not requiring assistance will be prioritized. However, assisted voting with another person can be done any time during voting hours. This measure has been criticized, as it could entail unfair discrimination against vulnerable groups.

Curbside and drive-through voting

Curbside voting is a procedural arrangement intended to facilitate operations at polling premises. To accommodate voters who may have difficulties or may be concerned when accessing a polling centre, electoral regulations allow for special mechanisms to provide assistance outdoors, typically at a parking lot near the polling station.

Justifications for this arrangement vary, but in general relate to conditions such as claustrophobia or agoraphobia, mobility restrictions that would prevent voters accessing ordinary polling places indoors or protecting those with weak immunity from transmissible illnesses. The Covid-19 pandemic showed how useful curbside voting could be, as voting operations could be carried out with appropriate social distancing. Such arrangements already existed, but they gained more prominence during Covid-19 constraints.

Curbside voting enables voters to cast a ballot from outside the polling premises. The voter may be on foot, or in a vehicle (drive-through voting). In either case, a walk-through or drive-through voting area with an appropriate buffer zone is advisable to protect ballot secrecy.

A polling station official meets the voter at the curbside buffer zone. After verifying the voter's identity, the election official hands the ballot over to the voter. There are then two possibilities. The voter may give the completed ballot back to the election official, who takes it back into the polling station to be put into the ballot box. This is the procedure used, for example, in North Carolina. Alternatively, the voter may put the ballot in a box located within the walk- or drive-through voting area. In this scenario, the SVA may be considered as an example of a special polling station. It is not easy to ensure transparency of this process: clear provisions are required regarding ballot storage and transport to a counting centre, and when and how the votes are to be counted.

Curbside voting requires careful specification. North Carolina regulations include all these requirements:

> Pursuant to G.S. § 163-166.9, any voter may vote curbside if they are unable to enter the voting place due to age or disability: (a) In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place. …
>
> G.S. § 163-166.9(a) states that the voter shall be allowed to vote curbside 'either in the vehicle conveying that voter or in the immediate proximity of the voting place.' …
>
> For the purposes of the buffer zone for electioneering activity, the vehicle is considered the voting enclosure. The buffer zone shall be at least six feet from the vehicle, and a greater distance if possible. Electioneers shall not enter the buffer zone.
> (Brinson Bell 2020)

To implement these requirements, the EMB issues a detailed manual (North Carolina State Board of Elections 2020). This illustrates the need for detailed planning of operational arrangements, with consequent requirements for proper equipment (for example ballot jackets to assist in preserving secrecy) and for in-depth training of polling officials.

Curbside voting is an established voting procedure in many US states, but few other countries use it. However, Covid-19 challenges led some countries in Europe to innovate with drive-through voting, such as Czechia (Skacel 2020), Lithuania (AP News 2020) or Malta (Borg 2022).

5.3. **EARLY VOTING**

Concept and variations

Early voting, sometimes called 'advance voting', is the voting method whereby eligible voters can cast their ballots in person at designated

polling sites before election day. Early voters cast their vote themselves. Unlike postal voters, they do so in person in a controlled environment at polling sites, where they are identified before ballots are issued. Early voting is also different from multi-day or staggered elections: not all voters may be eligible to cast ballots early; early voting is often available for substantially longer periods of time; and the polling sites serving early voters may be limited in number and may not be the same as polling sites open on election day(s).

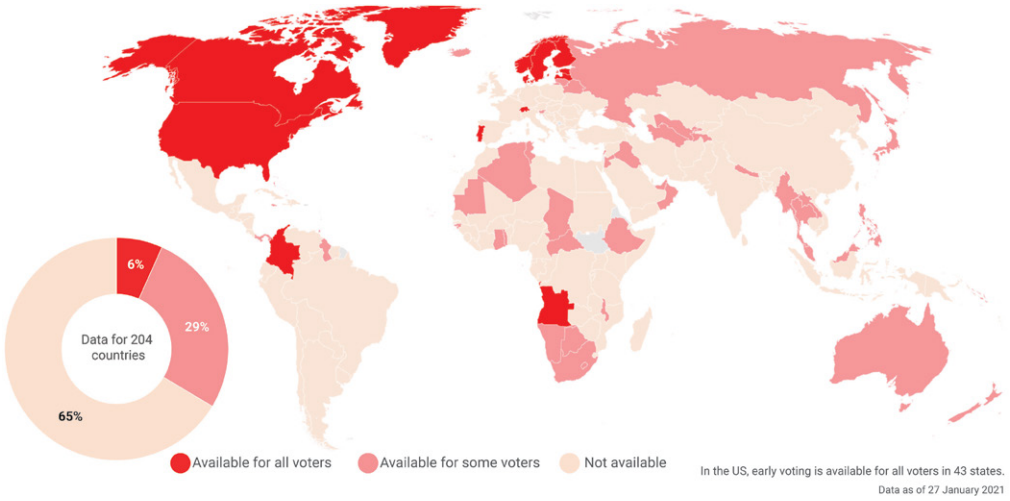
Early voting may partially overlap with other SVAs, such as voting in special polling stations or outside one's home precinct, when such polling stations are open early. To the extent that such overlap exists, considerations in this section apply also to special polling stations open for early voting. However, early voting needs to be differentiated from other SVAs that also take place before election day but in uncontrolled environments—such as postal voting and remote electronic voting.

Global use

Variations of early voting are primarily based on whether it is available to all voters or only certain categories of voters, as well as how far in advance of election day it is available, and through which polling sites. International IDEA's survey found early voting in all world regions, but its availability to all voters is more common in Northern Europe and North America (see Figure 5.1). Early voting is more common in OECD countries than in non-OECD countries (see Figure 5.2). In 2020, with the outbreak of the Covid-19 pandemic, some countries expanded early voting or offered it for the first time to mitigate the risk of infection on election day.

In the Americas, early voting is allowed for all voters in Canada, Colombia and most of the states of the US. Ten countries in the Americas, mostly in the Caribbean, allow early voting for some groups of voters. The vast majority of countries in South America do not allow early voting in any form. In Europe, Denmark, Estonia, Finland, Latvia, Norway, Portugal, Sweden and Switzerland allow early voting for all voters. Iceland, Malta and Slovenia allow early voting only for some voters, as do Belarus, Lithuania and Russia. Most countries in Europe do not allow early voting in any form.

Figure 5.1. **Early voting by country**

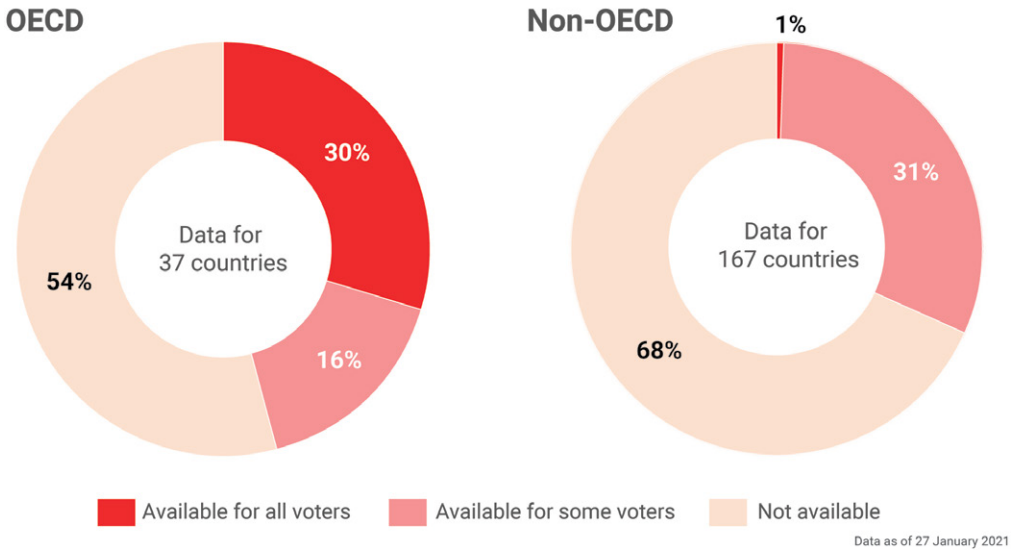


Source: Developed by the authors.

In Africa, 18 countries allow early voting. The majority of countries in the continent do not allow early voting. In Asia, 16 countries allow early voting but only for some voters. In Oceania, nine countries allow early voting, again only for some voters. Early voting is available in the region's two biggest countries—Australia and New Zealand—as well as in Cook Islands, Fiji, Nauru, Niue, Pitcairn Islands, Samoa and Solomon Islands.

When not available to all voters, early voting is often provided for voters who reside in remote areas far from polling stations (e.g. in Algeria, Australia, Fiji and Russia) or those who will be away on election day (e.g. in Bermuda, Cabo Verde, Japan and Malaysia). Early voting may also be available to voters with specific health conditions (e.g. in Cayman Islands and New Zealand), incapacity (e.g. in Anguilla and Seychelles), or planned hospitalization (e.g. in the Bahamas or Malta). Frequently, early voting is provided for voters who may not be able to cast their ballot on election day due to work duties. This may cover listed occupations, such as poll workers (e.g. in Botswana and Malaysia), journalists, election observers and medical personnel on election duty (in Lesotho), police and security personnel (e.g. in

Figure 5.2. **Early voting in OECD vs. non-OECD countries**



Note: OECD = Organisation for Economic Co-operation and Development.
Source: Developed by the authors.

Chad and Grenada), and the military (e.g. in Guyana and Iraq), or may broadly apply to any profession (e.g. in Australia and Lithuania). It may also cover electoral participants, for example candidates and their election agents in Lesotho.

Policy issues

Early voting is similar to the conventional voting method and maintains most of its strengths. As early voters cast ballots in person in a controlled environment, there are no additional issues with protecting voters' freedom of choice and secret ballot. Early voting follows the same procedures as conventional voting, which voters and polling staff are familiar with. The law often prohibits campaigning in or near early polling sites and obliges observers, party representatives and the media to conduct themselves impartially. Early voting is convenient for those who may be busy or away on election day, and may reduce waiting times on election day. Early voting abroad gives greater flexibility for voters to reach polling stations, which are often few and concentrated in largest cities.

The convenience of early voting comes with additional costs, as it requires at least some polling sites to be open and staffed, polling materials to be distributed, and ballots stored and secured. Such costs can be estimated reasonably accurately in advance based on previous experience, as the cost categories are essentially the same as for conventional voting. Additional investment may be needed to safeguard integrity, as discussed below.

Another policy consideration is to establish how far ahead of election day early voting should take place in relation to the electoral campaign. Voters who cast ballots early in the campaign period do not benefit from additional information about the election contestants and their views that becomes available, or from the debate that takes place during the campaign. Early voting in person is normally available from a few weeks to a few days before election day, for example for three days during the week preceding the election in Slovenia.

Voter registration and identification

Early voting may be conducted with the same voter registration and identification systems used for conventional voting. It does, however, require an effective mechanism for preventing multiple voting. This issue is easily solved in countries where voters who voted can be marked off a centralized electronic voter list, such as Finland. In the absence of such a centralized register, early voting may need to be confined to the precinct of the voter's registration, with early voters being marked off the same hard copy of the voter list that will be used on election day. With certain legal and procedural caveats, such measures are compatible with allowing the voter to change the ballot they had already cast either during the advanced period or on election day itself.

In terms of eligibility, some states may require a valid reason to authorize voters to vote early or may limit early voting to certain groups such as election officials, military personnel or others who may have official duties on election day. This is the case for example in Botswana, where a specified day for early voting by these groups is provided. In instances where different groups of eligible voters within a jurisdiction receive unequal access to early voting sites, there may

be valid claims of discrimination against voters who have less access (Republic of Botswana 1968 rev. 2012: section 61(4)).

Election administration

Administration of early voting requires additional resources. Depending on the timing and scale of early voting, it may rely on some of the same premises and polling staff used on election day or necessitate creation of polling stations and personnel used only for early voting. In the latter case, procedures for the custody, counting and tabulation of early ballots on election day need to be harmonized with other election day procedures. Additional polling staff may be needed to assist with the counting of early ballots.

If early voting is used for the first time or made available to more voters than before, the necessary capacity may be difficult to estimate as the number of those who will vote early will be unknown. Prior experience may not be enough to help, especially in changed circumstances such as the Covid-19 pandemic. Election administrators may use surveys to gauge voters' intentions to vote early. Voter information campaigns should use multiple channels to reach eligible groups.

Ballot integrity

Early voting is easier to manage where the confidence in election administration is high. Similarly to conventional voting, weaknesses in the early voting process may be exploited by those wishing to undermine confidence in elections. Introducing or scaling up of early voting should be done with broad political support. The EMB should make a timely response to any misinformation about the process and may need to proactively explain the measures taken to preserve ballot integrity, as part of its voter information campaign.

Early voting is easier to manage where the confidence in election administration is high.

Compared with conventional voting, early voting requires mitigating additional integrity risks related to the time gap between the casting and counting of votes. The early votes need to be securely stored, and sometimes transported, until they are counted on election day. These risks may be mitigated through some of the same measures used in conventional voting, including making public (and allowing observers to verify) the number of voters who cast early ballots at the polling site every day, sealing the ballot box after each day of early voting,

and ensuring secure storage and transportation of ballot boxes. As an example, the Electoral Commission of New Zealand updates statistics of early voting on its website at 14:00 every day during the two-week period that early voting is available (Electoral Commission of New Zealand 2020).

Where ballots from different constituencies are cast early in special polling stations, these ballots need to be sorted by constituency, transported and stored until counting. Botswana provides an example of how this can be managed (Botswana Electoral Act sections 61(8) and 61(9)). Importantly, where the integrity of election administration itself is in question, and polling staff are suspected of collusion in electoral manipulations (e.g. in Belarus), early voting may be perceived as an additional opportunity for electoral fraud.

Box 5.2. **Integrity measures for early voting**

- Publishing numbers of voters by polling station for every day of early voting.
- Sealing ballot box after every day of early voting.
- Same voter lists signed by early voters used on election day.
- Secured storage.
- Secured transportation.
- Observer access.

Procedures for how early ballots are counted should be clearly delineated in laws and regulations.

Voting and counting

Early voting does not differ from voting on election day with respect to polling procedures. The voting site can be a specially designated polling station, or it may be on a location serving persons who may face barriers to conventional voting (e.g. hospitals, embassies). Early votes are typically counted on election day, otherwise partial election results will be known (and potentially leaked) before election day. Early-voting ballots can be counted with election-day ballots after the closing of polls. Resources permitting, counting of early votes could be assigned to counting teams that do not handle election-day ballots. Procedures for how early ballots are counted—including when they are to be counted—should be clearly delineated in laws and regulations.

Observing

As it takes place in a controlled environment, early voting does not pose any challenge for observation. Indeed, allowing observers to follow the process is one of the safeguards against malpractice and a confidence-building measure. If early voting takes place over an extended period, observer organizations need to plan accordingly and have enough staff available to maintain presence in polling sites, in line with their observation methodology.

Country example: Slovenia

Voters who will be absent on election day may vote early, but no earlier than five days and no later than two days before election day. Early voting is held at a special polling station set up at the headquarters of the district electoral commission and is supervised by the electoral board appointed by the district electoral commission. The State Election Commission (SEC) establishes uniform standards for the protection of ballot boxes and other election materials.

The early voting period takes place on the Tuesday, Wednesday and Thursday preceding election day. Polling stations are open from 07:00 to 19:00, and voting procedures are the same as on election day. The electoral board must use a different ballot box for each day, and the ballot boxes must be sealed and protected after the close of voting each day of early voting.

Voters may vote early only at the district electoral commission in the area where they are registered as permanent residents. Voters do not need to register for early voting. The SEC publishes on its website a list of the addresses of polling stations where early voting is available. Slovenia has not encountered problems with this method; voters are generally sufficiently aware of the opportunity to vote early and where and when to do it.

Turnout in early voting is low, and the majority of voters continue to vote on election day. Parliamentary elections in 2014 and 2018 recorded early turnouts of 3.90 per cent and 3.10 per cent, respectively, and presidential elections in 2012 and 2017 recorded early turnouts of 1.36 per cent and 1.65 per cent, respectively. There are approximately 1.7 million registered voters in Slovenia.

On election day, the same electoral roll is used as in early voting. Election officials need to make sure that all early voters are properly marked on the electoral roll for election day, to prevent double voting. Compared with normal procedures, the financial impact of early voting in Slovenia is estimated to cost an additional EUR 50,000 approximately.

5.4. MOBILE BALLOT BOXES AND MOBILE VOTING

Concept

Mobile voting denotes the voting method whereby voters are visited by polling staff at their homes or places of temporary stay (such as healthcare facilities) and are given the opportunity to cast ballots into a transportable ballot box. In this method, a controlled environment 'travels' to voters, who cast ballots in person. Less commonly, the entire polling station may be mobile (for example, set up in a bus) and change locations during the day, for example, in Japan (*The Mainichi* 2022) and South Africa (Electoral Commission of South Africa n.d.a). Where such polling stations are provided to visit specified groups of voters, they may also be regarded as special polling stations, thus combining two SVAs (or more if, for example, assisted voting is available).

Mobile voting may take place before election day, in which case some of the considerations applicable to early voting would also apply to mobile voting. The difference may be in the duration of voting: a mobile team or mobile station visits a particular location for a limited time, whereas an early polling station is open for longer periods. It may also relate to eligibility—mobile voting often targets a specific voter or group, such as residents of a healthcare facility or a remote community. In facilities such as hospitals and prisons, voting arrangements may involve visits by mobile teams operating from nearby regular polling stations.

Mobile voting may also be made available to individual voters who have difficulty reaching and voting at a polling station. In Bulgaria, a special register is compiled of voters with a permanent disability who have applied for a visit on election day from a mobile voting team attached to their regular polling station: these voters are then

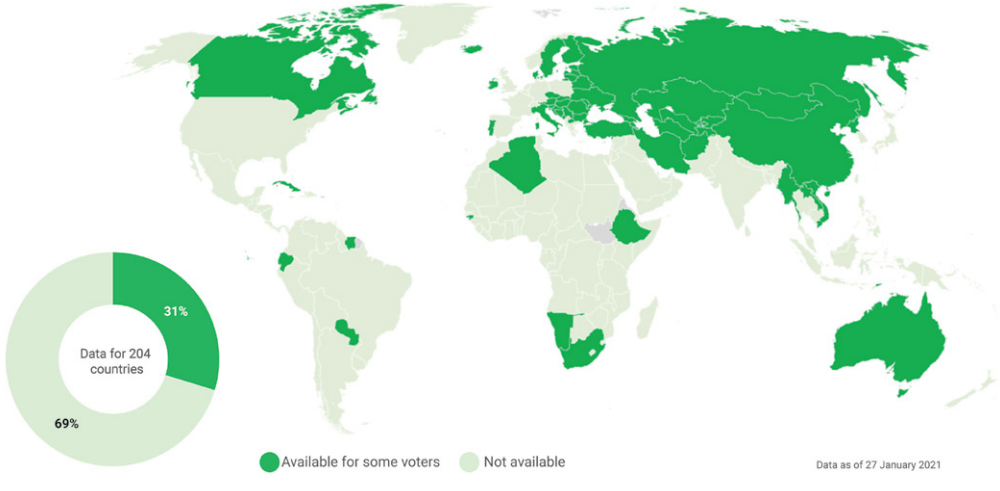
deleted from the register used by the polling station itself. Both the registration and the polling procedures are defined in the electoral law (Venice Commission 2014: articles 37 (registration) and 237–39 (polling)).

Global use

International IDEA's survey found mobile voting in 64 of the 204 countries and territories surveyed (see Figure 5.3). The use of mobile ballot boxes is more common in Europe than in other continents—26 countries in Europe have provisions for use of mobile ballot boxes, most of them in Eastern and Northern Europe. Many of the countries in Central and Eastern Europe carried over the practice of mobile ballot boxes from the administrative procedures contained in pre-1989 Soviet-era electoral laws and have subsequently retained them.

In Asia, 19 countries allow the use of mobile ballot boxes. In Oceania, mobile voting is provided in Australia and five island countries of the Pacific region: Cook Islands, Marshall Islands, Micronesia, Nauru and Samoa. In the Americas, the use of mobile ballot boxes is limited—only 7 out of 42 countries provide this type of SVA. Those countries are dispersed across the continent: Bermuda, Canada, Cuba, Cayman

Figure 5.3. **Mobile voting by country**

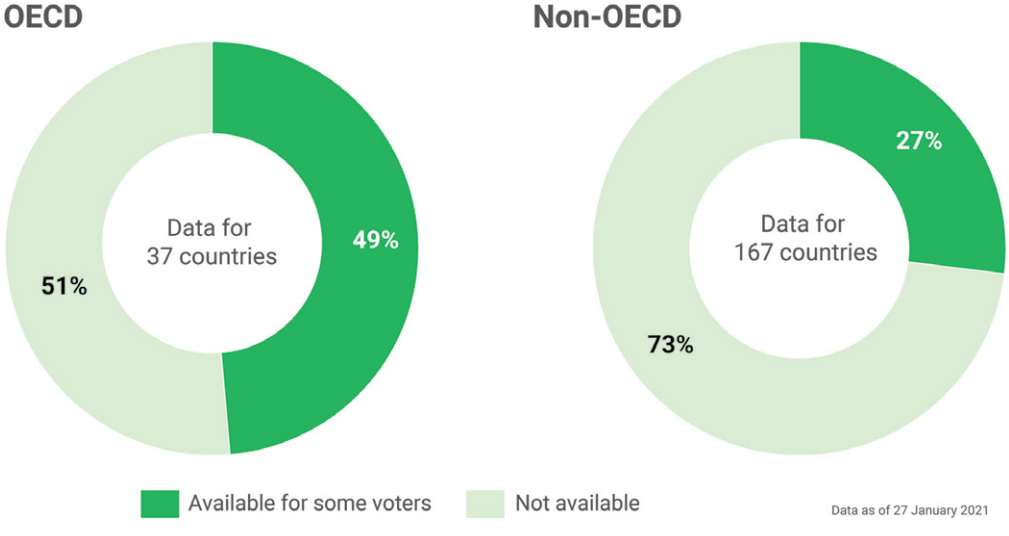


Source: Developed by the authors.

Islands, Ecuador, Paraguay and Suriname. Even fewer countries provide mobile voting in Africa—only 5 out of 52. Those countries are Algeria, Ethiopia, Guinea-Bissau, Namibia and South Africa. Mobile voting is more common in OECD countries (see Figure 5.4).

For obvious reasons, mobile voting is never provided to all voters. Mobile voting is offered to groups who may find it difficult or impossible to vote conventionally on election day. Most commonly it is used to serve voters who are confined to their home (e.g. in Bosnia and Herzegovina, Croatia, Ecuador, Latvia, Moldova, Mongolia, Paraguay, Türkiye and Ukraine) or a healthcare facility (e.g. in Armenia, Australia, Bermuda, Czechia, Ireland and Mongolia), and for those in places of detention (e.g. in Georgia, Hungary and Timor-Leste). Providing mobile voting for health reasons was interpreted during the Covid-19 pandemic as including cases of isolation and quarantine (e.g. in Croatia, Czechia and Romania). Electoral administrators may employ mobile ballot boxes to serve other communities who may find conventional voting challenging, including

Figure 5.4. **Mobile voting in OECD vs. non-OECD countries**



Note: OECD = Organisation for Economic Co-operation and Development.
Source: Developed by the authors.

rural and remote communities (e.g. in Algeria, Australia, Kazakhstan, Namibia and South Africa) (Asplund et al. 2021).

Policy issues

Mobile voting offers the benefits of a controlled environment and voting in person. Its main drawbacks are its limited capacity and potential integrity risks. Polling staff with a mobile ballot box can visit only a handful of localities a day, especially if travel distances are significant. The cost of election administration per voter may be substantially higher compared to conventional voting and other SVAs.

If mobile voting takes place before election day, it entails similar integrity risks to early voting. However, a greater number of especially vulnerable voters may potentially be reached. Mobile voting capacity should be estimated in advance, and consideration should be given to alternative voting options for those whose needs cannot be met by mobile voting due to insufficient capacity.

Voter registration and identification

A reliable mechanism against multiple voting must be in place for mobile voting.

Mobile voting is made available upon prior application, with some countries allowing such applications also until a certain time on election day. There should be a variety of channels to submit these applications, making them accessible for voters with a variety of communication needs. Mobile voters may verify their identity in the same manner as voters using the conventional voting method, with the possible exception of IT solutions, which are not transportable from polling stations. As with early voting, a reliable mechanism against multiple voting must be in place for mobile voting, with those who voted promptly being marked off voter lists. A mobile ballot box may travel with an extract from the voter list with the data of voters who requested mobile voting. This is then added to the voter list in polling stations. Additional safeguards may need to be employed, such as indelible ink in South Africa (Electoral Commission of South Africa n.d.b). Proving voter identification and eligibility may be challenging, especially for groups of voters with no fixed address or inadequate identification documentation.

Election administration

Mobile voting could be said to pose more challenges in planning than in actual administration—the issue being matching capacity with

demand. At voting sites such as hospitals and places of detention, where the need for mobile ballot boxes is known in advance with reasonable accuracy, this may be reasonably straightforward. Elsewhere, if mobile voting may be requested up until election day and on election day itself, there may not be enough polling staff to respond to surges in demand. Having some standby capacity is advisable but not always feasible.

Eligible voters should receive timely information about the application procedure for mobile voting, including the deadlines. The application process should be made as easy as possible, taking into account the communication needs of eligible voters, while including a verification mechanism by the responsible authority. Deadlines for applications and decision making on mobile voting should be such that voters whose application cannot be processed still have other options to exercise their vote. Schedules of mobile voting teams should be made public sufficiently in advance of election day.

The EMB should be prepared to explain how mobile voting procedures exclude ballot box stuffing and to ensure security of votes, including the composition of mobile polling teams.

Ballot integrity

Mobile voting needs to safeguard against multiple voting. It also carries the same integrity risks as early voting. Mobile votes need to be securely transported and stored until they are counted. Procedures for mobile voting therefore need to incorporate clear chain of custody rules, minimize the risks of anyone tampering with mobile votes, and provide a related transparent and verifiable document trail. The EMB should be prepared to explain how mobile voting procedures exclude ballot box stuffing and to ensure security of votes, including the composition of mobile polling teams. Additional safeguards to be considered include informing observers of the mobile team route and schedule, and providing access to voter lists for mobile teams.

Voting and counting

Mobile voting procedure is essentially similar to conventional voting, including recording voters who receive a ballot. Consideration should be given to the fact that a large mobile polling team visiting a vulnerable homebound voter may appear intimidating and utmost care should be given to make sure the voter can cast the vote uninfluenced, and in secret. This is the reason why mobile voting should be seen as an exceptional arrangement, to be implemented only when no alternative exists. According to the Venice Commission,

Box 5.3. **Integrity measures for mobile ballot boxes and mobile voting**

- Secure chain of custody and clear rules regarding storage and transportation.
- Transparency to be enhanced admitting electoral observers and procedures adjusted to that aim—for example by publication of the schedules of mobile voting teams.
- Voter education to focus on trust-building activities, highlighting measures that are implemented to prevent misuses.
- Mobile voting capacity should be estimated in advance, and consideration should be given to alternative voting options for voters whose needs cannot be met.
- A reliable mechanism against multiple voting to be in place for mobile voting, with voters who voted promptly being marked off voter lists.
- Utmost care should be given to make sure the voter can cast the vote uninfluenced, and in secret.
- Secrecy of the vote to be protected by merging these ballots, if their number is small, with those from conventional voting.

'The use of mobile ballot boxes is undesirable because of the attendant serious risk of fraud. Should they 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' (Venice Commission 2002: 22, 3.2.2.1).

Mobile votes are typically counted together with ballots from conventional voting on election day. Protecting ballot secrecy of mobile voters dictates that, when the mobile ballot box contains a small number of ballots, they need to be mixed with other ballots before counting. For the same reason, results of mobile voting may be recorded (and reported) separately only if the number of mobile ballots is comparable to other units of aggregation and reporting, such as precinct or polling station.

Observing

Mobile voting is observable in principle, but challenges do arise in practice. First, observers need additional resources to accompany the mobile ballot box. Second, there may be issues with observers having access to all stages of the process. When mobile voting takes place in publicly accessible premises such as hospitals, care homes and places of detention, observers should be able to access them on the same terms as polling staff. However, private premises may not

be accessible to observers due to privacy considerations and lack of space. In Latvia (Heinmaa and Kalandadze 2021: 25), for example, voters are entitled to not allow observers into their home.

Observers should be able to verify the records and materials pertaining to mobile voting—for instance, the number of approved applications, the number of issued ballots, the number of returned ballots, and the voter list records for each day of mobile voting. As with other SVAs, confidence in the integrity of election administration enhances confidence in this voting method.

Country example: Australia

Australian legislation sees mobile voting as a way to enhance inclusiveness and to allow more voters to cast their ballots. In this regard, the Commonwealth Electoral Act 1918 establishes how to implement this mechanism. The Electoral Commissioner will appoint persons to be members of mobile voting teams who will be provided with all necessary equipment, such as ballot boxes or ballot papers. The place where the vote takes place will be deemed to be an actual polling place, 'the building, structure, vehicle or enclosure used by the leader for the purposes of taking votes under this section shall be deemed to be a polling booth at that polling place; and (iii) the leader shall be deemed to be the presiding officer at that polling booth' (Commonwealth of Australia 2022: section 227(8)(b and c)).

Country example: Peru

In Peru, every polling centre is required to have a specific room on the ground floor. Whenever necessary, polling staff will move to this room, together with the ballot box, and the voter is able to cast their ballot within the same parameters as voters not requiring assistance. A voting booth is available, therefore no concerns regarding custody or secrecy exist (OAS 2020: 9).

5.5. MULTIPLE ELECTION DAYS

Concept and global use

In many democracies, conventional voting takes place on only one day—election day. However, a country may designate more than one

election day for the same election. Multi-day voting happens in a significant number of countries and takes two forms.

The first type—multi-day voting—involves voting at the same polling stations for the same election on more than one day, which may be consecutive or not. Multi-day voting takes place in countries such as Chile (Zovatto and Jaraquemada 2021), where this mechanism was adopted to achieve an even distribution of voters to address Covid-19 concerns. Italy (Carella 2020) and Russia (Roudik 2020) use multi-day elections too.

The second type of multi-day voting—staggered voting—takes place when national or jurisdiction-wide elections are scheduled to take place in different geographic areas on different election days. These days may be consecutive or not. Examples of countries that conduct staggered elections include India (Ayres 2019) and Seychelles (Seychelles 2020: article 13).

Policy issues

Multi-day voting can promote suffrage by providing greater accessibility to the voting process, particularly in countries without other available SVAs. Voters who may be unable to vote on one day have the opportunity to vote on another. During the Covid-19 pandemic, instituting multi-day voting was considered by some states to be an effective approach to mitigating the risks of infection, similarly to early voting.

Multi-day voting can promote suffrage by providing greater accessibility to the voting process, particularly in countries without other available SVAs.

Multi-day voting results in some added costs for the EMB, security agencies and other state actors for each additional day of voting, and for securing and storing ballots and other election records between election days. Electoral legal frameworks must address the risk of double voting and the need for safe ballot storage until the last election day has taken place and counting can begin.

To a voter, an election day in a staggered voting system would be no different from a conventional election day. The voter would cast their ballot at a polling station on the election day scheduled in the voter's geographic area.

Staggered voting may appeal to countries for several reasons. It may facilitate the administration of the vote for countries with a large population, or whose geographic constraints make a same-day national vote impracticable. Staggered voting may enable an EMB with a limited number of electoral officials available, or a state with a limited number of security officials, to have the capability to efficiently oversee the vote. It may therefore save costs for an EMB and other state actors who may not have the capacity to conduct a simultaneous nationwide election.

Additional costs would be incurred in securing and storing cast ballots—ballots cast in the first phase in a staggered election may need to be stored for days or weeks depending on the overall length of the electoral process—and in ensuring that information on who voted in earlier election phases is communicated to polling stations during later phases. It is not only the electoral administration that incurs extra costs: other stakeholders, such as political parties, may be forced to maintain and resource an active campaigning machinery over several weeks with different election days.

Premature knowledge of results from one phase may unduly influence the voting in later phases.

Provisions against the dissemination of election results from an early electoral phase would be essential: premature knowledge of results from one phase may unduly influence the voting in later phases.

This has implications for the strategy of political parties. Even if results have not been published, unofficial feedback will exist, at least from informal exit polls, and thus campaign messages will be adjusted week after week. Staggered voting may be unfair to voters who cast votes in the earlier phases of the process, particularly if the first phases are many days or even weeks before the final phase of voting. Voters in early phases may be deprived of crucial information such as last-minute news developments concerning parties or candidates, the death or withdrawal of a candidate, or public polling information that may inform their vote.

Voter registration and identification

In either multi-day or staggered voting, voter registration and identification would not be markedly different from similar procedures for a single, conventional voting day, as long as procedures are in place to indicate that a voter has cast their ballot,

and the risk of a voter attempting to vote more than once with the same address or a different one is addressed.

Election administration

Multi-day voting arrangements have important consequences for the election administration. While adding more days of full election deployment is clearly an extra burden, staggered voting could become an appropriate solution for electoral bodies whose limited resources cannot cover an election day throughout the whole country.

In any case both options entail specific operational and logistic arrangements since multiple aspects of an electoral process will vary. Firstly, the safe storage of sensitive electoral material together with mechanisms to prevent double voting arise as primary concerns that need to be addressed. Secondly, polling staff will need to be recruited and trained with the implications of this SVA in mind. If more than one day is agreed, the deployment plan should consider the total amount of working hours to be expected and prepare substitutions whenever necessary.

For staggered voting, EMBs should be prepared to maintain long election calendars with limited staff and repeat the same procedures across the country. While costs will be reduced in theory, should the organization strategy not be adjusted to the specifics of this SVA, the electoral process could end up being complex and even more costly.

Voter education is crucial for a successful outcome too. While voting mechanisms as such will not change, the fact that voting takes place on multiple days may confuse or mislead some voters, in particular those belonging to vulnerable groups.

Ballot integrity

Multi-day and staggered voting processes call for procedures for the sealing and storage of votes before the final day of voting and counting takes place.

Different states may take different approaches to the closing of voting operations, the securing and storage of ballots, and the opening of the polling station and the re-commencement of voting. To help promote confidence in ballot security, partisan observers

To help promote confidence in ballot security, partisan observers from all parties or representing all candidates should participate in the ballot securing process.

from all parties or representing all candidates should participate in the ballot securing process—for instance, by sealing with their own paper or other seal the box containing votes at the close of the day's activities. These representatives may then verify that the ballots were not tampered with when the polling station opens for the next day's operation or before commencement of the count.

Box 5.4. **Integrity measures for multiple election days**

- Both an appropriate electoral legal framework and suitable operational arrangements to address the risk of double voting and the need for safe ballot storage until the last election day takes place and counting begins.
- Anticipated disclosure of official results to be prevented.
- Attention to be paid to voters casting ballots having received different political information depending on which day they vote.
- Voter education, namely for vulnerable groups, to communicate clearly a complex voting arrangement with different voting days.
- Party agents to participate in the ballot securing process. Neutral observers and media to witness the process thereby enhancing transparency and trustworthiness.

Voting and counting

Aside from ballot security and storage over one or more nights, the voting and counting procedures under both multi-day and staggered voting would be no different than with a conventional, one-day, electoral process. As with other SVAs involving more than one election day, electoral laws and procedures governing staggered elections can address the risk of double or multiple voting.

Observing

Because both multi-day and staggered voting are in-person processes, there should be full accessibility for electoral observers, the media and partisan representatives, subject to proper rules of conduct. Observers and the media can play an important role in confirming the trustworthiness of that process, particularly regarding the storage of ballots overnight (or over several nights). A good practice is to ensure that neutral observers and the media have an opportunity to witness the placement of these items in a secure

container and location, and the reopening of the container at the start of the subsequent election day.

Country example: India

India is the largest democracy, with over 910 million citizens registered to vote in recent elections. This factor is combined with an ethnic, linguistic, cultural and religious diversity that makes holding elections more complicated. Security concerns, as well as public administration bodies with limited resources, necessitate an electoral process spanning several weeks, so that every week only certain constituencies will vote. Ballots are stored and counted at the very end of the process.

This mechanism has raised questions about ensuring the integrity of the electoral process. Silence periods or other similar measures that intend to ensure a calm atmosphere when voting lose their rationale since campaigns will keep going in other constituencies. Furthermore, criticisms exist about the lack of consistency in determining the number of phases required per constituency. While large ones may have one single day, other smaller ones would need more phases (Ramachandran 2021). However, such decisions may be justified by the difference in security assessments, since staggered elections in India are mainly based on the lack of security forces to be deployed throughout the country on one single election day.

There are indications that electoral violence persists even with multi-phased elections. While security forces will have more time to prepare deployment, the same applies to citizen groups that are mobilized to cause trouble over a longer period (Kumar 2021).

5.6. ONLINE AND OTHER REMOTE ELECTRONIC VOTING

Online voting refers to a system that allows casting ballots via a computer connection.

Concept

Online voting refers to a system that allows casting ballots via a computer connection. Not all online voting is considered as an SVA. Mechanisms used in uncontrolled environments (such as at home or in a hotel) are indeed an SVA, as are some mechanisms used

in controlled environments such as e-kiosks staffed by electoral officials and used for early online voting.

Simpler forms of remote electronic voting involving the use of computer technology also exist, including scanning and sending marked ballots by email or sending marked ballots by fax. Such forms of voting may present similar risks as online voting and, where human operators are needed, as assisted voting. They inevitably give rise to concerns about the probable lack of safeguards that protect ballot integrity and secrecy. For example, voters by fax in Alaska formally waive their right to a secret ballot.

The legal and administrative framework for any form of online or electronic voting is not simple. It inevitably alters fundamental pillars of electoral management, requiring those who develop these frameworks to consider how guarantees for the voter and for the integrity of the results can be the same, whether voting takes place electronically or in a conventional form. Detailed consideration, mechanisms such as certification (International IDEA 2015) and source code release (Clouser et al. 2014), and explanation by IT specialists are necessary to ensure and communicate that the system is safe from hackers or hostile agents. Feasibility studies and pilots are usually regarded as essential first steps before online or other remote electronic voting is generally rolled out.

However, an online voting system implemented within traditional polling stations, like the one tried in Finland and abandoned, is an example of conventional voting: although the voter uses a device, the task of voting is performed autonomously. Similarly, voting machines operating in polling stations are also examples of non-remote electronic voting and therefore not regarded as an SVA.

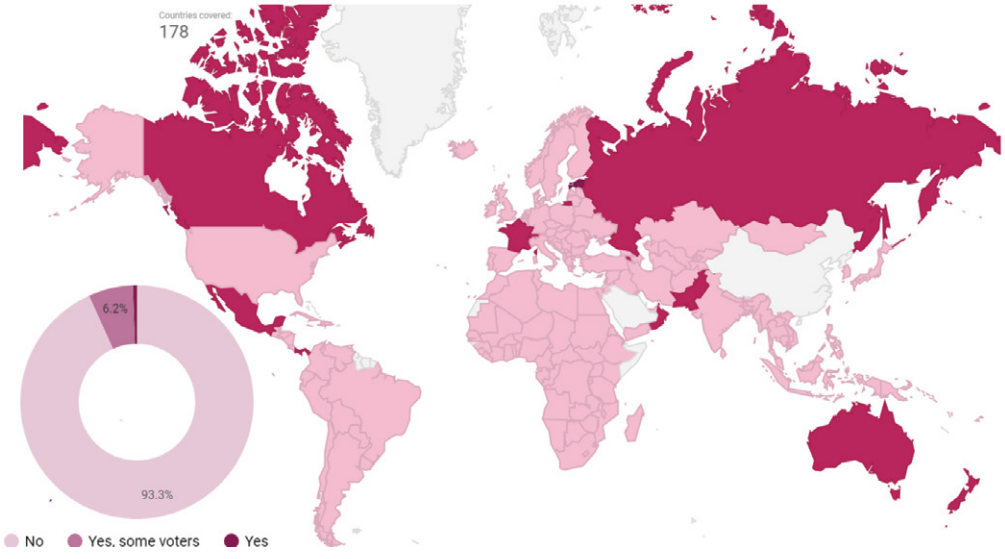
Global use

Online voting is used by a handful of countries, including Armenia, Canada, Estonia, France, Mexico and Panama. Resumption of online voting is also being considered in Switzerland. Estonia was the first country that allowed online voting for every voter and for any election. Other countries have taken a more cautious approach limiting it to (some) expatriates (e.g. Armenia, France and Mexico), or some elections (in Canada it is used only for some provincial elections).

Norway discontinued its use because of security and integrity concerns.

The limited use of remote electronic voting up to the time of writing is reflected in an equally limited presence in international electoral standards documents. A pioneering set of recommendations were, however, first agreed by the Committee of Ministers of the Council of Europe in 2004 and updated in 2017 (CoE 2017).

Figure 5.5. **Remote electronic voting by country**



Source: Developed by the authors.

Policy issues

Different reasons may exist for adopting remote electronic voting, such as serving expatriates, increasing turnout, enfranchising those who cannot vote in physical polling stations, speeding up the tabulation of votes, limiting polling staff deployment, having an electoral administration aligned to the digital era, and making voting more convenient. Every country may have different needs and an

evaluation is to be done before launching such projects. Feasibility studies and needs assessments are crucial, but sometimes they are neglected due to hasty, biased or politically motivated decisions. Social and political consensus is paramount to implement online voting successfully, but a sufficient timeframe should be built in in order to reach it. In general terms, context matters: it is difficult to provide universal answers to mechanisms that should fit in country-based scenarios with different risks, strengths and weaknesses (see Figure 5.5 for an overview of countries that offer remote electronic voting).

Cost–benefit analysis regarding the implementation of online voting either alone or in comparison with other voting channels has not been conclusive so far. Few studies have been undertaken in this regard due to the lack of a consistent methodology and the limited number of real examples available. For example, in their research comparing online voting in Estonia with other voting mechanisms, Estonian groups (Krimmer et al. 2018: 117–31) partitioned the electoral process in small pieces and assigned a cost to each one. A conclusion was achieved in the sense that online voting is beneficial in economic terms. However, more research and additional case studies would be needed for a more conclusive outcome. Moreover, cost may not be the key parameter when considering the implementation of online voting, since more inclusive and efficient elections could take precedence. Democratic indicators may be more important than specific economic considerations.

Online voting needs specialized staff, both in-house and outsourced. The implementation of IT projects relies on good human resources management. Moreover, the skills needed to work on an online voting system are not normally found in staff working for a traditional EMB. People with these skills therefore need to be brought on board, typically coming from a private company dealing with elections. EMBs should have an in-house taskforce capable of partnering with external companies and other stakeholders, such as civic activists against or supporting online voting. This is crucial for dealing with a fair and efficient procurement. It is also necessary for public supervision of the overall project and its social acceptance.

Online voting needs to be planned well in advance of the election day. An entire electoral cycle or an even longer timeframe must be scheduled to complete the process. As noted above, there are fundamental steps that should take place months and even years ahead of the election day. Feasibility studies, consensus building, technical specifications and IT procurement cannot be undertaken once the election is called. On the other hand, tests, simulations, and transparency measures in terms of software and hardware management can and should take place during the election period. A careful and comprehensive operational plan, a clear separation of tasks between technical and political domains, and risk mitigation measures are key steps in any online implementation. Post-election evaluations, including lessons learned, which can be applied for future scenarios, are also important procedural steps for a high-quality online voting project. In general terms, high standards of quality management are necessary for its implementation.

Importantly, poor voter awareness may cause the failure of an online voting project, even in cases where the technological platform was robust. The voter as an end user has the final say. Elections take place on a regular basis and achieving voter education in a short timeframe may become a stressful goal. Given the specific features of online voting, voter education campaigns may be customized to certain targeted groups (e.g. those who are not IT literate or do not have access to computers), but all voters will also need an initial introduction to the IT systems. With online voting, the traditional way of casting a ballot is changing: a new procedure for voting is introduced, which could be daunting for some. There are various ways of addressing this, including mock elections, where voters will be able to test the system to be used during the election day.

With online voting, the traditional way of casting a ballot is changing: a new procedure for voting is introduced, which could be daunting for some.

In terms of the legal framework, lawmakers and EMBs should adjust current provisions, and terminology in particular, to new categories and concerns. International standards exist, such as the Council of Europe Recommendation 2017(5) (CoE 2017). This text is an updated and expanded version of CoE's 2004 recommendation.

Introducing Internet voting usually comes with the expectation that turnout will increase. Whether it does depends largely on the context. If no alternative voting mechanism exists, which could be the case for

overseas voting, turnout is likely to rise. However, when online voting is only one of several voting channels, there would be more factors to consider. In Estonia, for instance, different methods exist: 'Estonia has implemented Internet voting in national elections since 2005 and the percentage of voters voting via Internet has trended up in each successive election. ... The 2011 parliamentary elections saw a significant increase in the usage of Internet voting (over 24 percent of all votes were cast using the Internet)' (NDI n.d.). Moreover, in 2023, more than 51 per cent of voters in the 2023 Estonian parliamentary election voted by means of the Internet (Valimised n.d.).

Voter registration and authentication

Voter registration for online voting combines features found in other remote voting systems, such as postal mechanisms, with those that arise from using IT means. Different solutions are available. First, a decision needs to be made as to whether the voter should attend a specific state administrative centre to produce a valid ID and be given a set of passwords they can use to access the online voting applications. These credentials could have a general purpose, such as general digital certificates, or be created only for the election(s). One-time passwords (OTP) are usually acceptable as well.

Second, decision makers may wish to implement a system where the citizen is not obliged to show up at any state office. Online voting intends to facilitate accessibility, and requirement for in-person attendance would go against this to some extent. However, an online voting system without a previous in-person registration may be open to abuses in the form of impersonation. A trade-off would be necessary between robustness and accessibility. Normally, a combination of logins and passwords is used. While such info may be sent by post or even by email, access to the applications would require additional personal information that only the voter would have. There are also different degrees of robustness depending on the combination of these factors and the type of information required.

Finally, online voting systems may rely on active application patterns: election authorities will only consider those citizens who have applied to use the mechanism; credentials will not be given to a general pool of citizens without prior application. This pre-stage (i.e. application)

makes the whole voter registration strategy for online voting more difficult.

Election administration

In general terms, the EMBs can maintain the same structure, but certain aspects may need to be modified due to the implementation of online voting. As already noted, re-skilling of existing staff, and even hiring new people, will be necessary so that enough in-house expertise exists within the relevant EMB and cooperation between stakeholders (e.g. e-voting provider, certification company, audit bodies at the public administration, judiciary, CSOs) should be encouraged.

It is also possible to link online voting to new public bodies or units. Given the specific challenges of any online voting programme and the independent scrutiny it requires, certification agencies or public administration entities can provide supplementary guarantees. While the former would be asked to certify that the e-voting solution complies with a set of pre-established standards, the latter consists in very specialized bodies that deal with IT-sensitive platforms and aims to provide evidence of their actual performance. Both solutions entail a set of specific decision-making procedures, operational criteria and accountability mechanisms that are normally customized to online voting needs. The certification mechanism, albeit limited to electronic voting machines only, in France or the Collège des Experts in Belgium (International IDEA 2015) are examples of e-voting procedures being audited by private firms (in France) or by a specific public body (in Belgium). Both aim to provide ad hoc solutions adapted to this electoral technology.

Finally, the judiciary may play an important role adjudicating elections where technology is key. However, it can be a challenge for a judicial body to assess an IT election solution under traditional legal criteria. That is why awareness-raising initiatives are normally welcome also for civil servants.

Ballot integrity

Online voting may be problematic in jurisdictions with poor infrastructure and Internet penetration, not only for technical reasons,

but importantly also due to voters having unequal access to this voting channel.

Providing guarantees that all votes were cast in secret, not tampered with nor revealed, and were received and counted as intended are major challenges when it comes to online voting.

Providing guarantees and transparently demonstrating that all votes were cast in secret, not tampered with nor revealed, and were received and counted as intended by the voter are major challenges when it comes to online voting. Verifiability becomes an even greater challenge if each voter is expected to be able to perform and understand these checks. This problem led to a de facto ban of online voting by the German Constitutional Court in 2009, in a case law example that established criteria (e.g. public nature of the electoral process), which other jurisdictions may also wish to consider.

Given the technical nature of any online voting solution, it will be difficult to produce evidence that can be easily understood by those who are not experts in IT. Ultimately, the task of confirming the integrity of the elections may rest on a handful of very specialized computer experts, either public servants or working for private companies, which in some contexts may cause suspicion about their decisions. This underlines the importance of considering whether such delegation could lead to concerns about a lack of legitimacy and public scrutiny, and whether transparency and accountability could be undermined. Non-experts could not ascertain whether ballots have been tampered with or at least their content revealed.

Online voting platforms have in the past struggled to provide solutions for these concerns. 'End-to-end (E2E) verification' aims to provide evidence in three key stages: ballots cast as intended, ballots stored as cast, and ballots tallied as cast. The first two steps provide plain-text evidence, which those without specialized knowledge can easily understand. The third one requires computer expertise, but the IT structure is laid out in such a way that any computer scientist could perform the tests independently. Nobody would retain the audit monopoly.

These new features help with some issues, mainly those related to the integrity of the results, but some reservations remain. For instance, E2E verification provides no evidence of potential breaches of the anonymity of the ballot. Moreover, ballot secrecy could also be compromised when coercion from third parties could

take place. While the former would need a sophisticated IT audit, whose feasibility is to be confirmed case by case, the latter might be addressed with multiple voting opportunities, that is allowing the voter to change the initial vote, and considering the last one or the one cast in paper as the only valid ballot. Consideration should be also given to a comparison with other remote voting options (i.e. postal voting), where the same concerns related to secrecy and coercion may exist.

Box 5.5. **Integrity measures for online and other remote electronic voting**

- Individual and universal voter verifiability to be provided.
- Audit measures to be implemented by independent experts with criteria, procedures and results to be shared with stakeholders.
- Feasibility studies, together with adequate timeframes for decision making, procurement, technical development and actual implementation.
- Social and political consensus is paramount for a successful implementation of online voting.
- EMBs to be equipped with an in-house taskforce capable of partnering with external companies and other stakeholders, such as civic activists against or supporting online voting. Accountability and a professional approach to decision making to be enhanced further.
- Online voting needs to be planned well in advance of the election day and at least an entire election cycle could be necessary for its implementation. A careful and comprehensive operational plan, a clear distribution of a clear separation of tasks between technical and political domain, and risk mitigation measures are key steps in any online voting implementation.
- Poor voter awareness may cause the failure of the project, even where a sound technological platform is in place. Voter education campaigns may be customized to certain targeted groups (e.g. those who are not IT literate or do not have access to computers), but all voters will need a general introduction to these systems. Mock elections, where voters will be able to test the mechanism to be used during the election day, may be helpful.
- Digital divide to be considered and equal access to online voting for all eligible voters to be granted.
- IT approach to be accompanied by an institutional and social assessment.
- Legal framework to be adjusted to the nature of online voting while preserving the same principles.
- Robust authentication process to avoid impersonation, disenfranchisement or double voting.
- Multiple voting to be considered as a way to address concerns on voting coercion. Anonymity of the ballot to be ensured through duly accountable IT means.
- Usability of the system, particularly during the voting phase, to be assessed.
- Observation mechanisms to be customized in terms of the timeframe, topics to be covered, criteria to be used and personal skills to be required.

Online voting requires reformulating traditional checks and balances of the electoral process.

Online voting requires reformulating traditional checks and balances of the electoral process. As with other voting mechanisms, decision makers in every country should weigh the risks and advantages and decide accordingly. A purely IT approach will not provide a definitive answer. It should be accompanied by an institutional and social assessment.

Voting and counting

With IT tools being used for online voting, both casting a ballot and the counting phase will differ considerably from the conventional electoral process. A robust authentication process is needed to prevent impersonation, disenfranchisement or double voting. A variety of solutions may be considered, from digital ID certificates to OTPs, with different variations depending on the security levels that would have to be achieved. Once the voter is authenticated, an e-ballot, which specific layout needs to be agreed, is presented to the voter who makes their relevant choice, with confirmation normally being required on the next screen. Usability is crucial because otherwise the voting session could fail, as happened in Finland (see case study below).

Counting is carried out through computerized mechanisms, which means results should be available shortly after closing. Before tallying, attention should be paid to the complete anonymization of the ballot box as both the voter's ID and the content of the ballot were sent together through the same channel. Cryptographic schemes are available that break the link between voter identity and ballot, typically just before the tally. Any online voting system for public elections should include such mechanisms.

Observing online elections needs new approaches in terms of the timeframe, criteria and profiles.

Observing

Transparency and accountability cannot be achieved by normal means when targeting online voting. Observing online elections needs new approaches in terms of the timeframe, criteria and profiles (for a systematic overview, see The Carter Center 2010). It is worth highlighting that certain crucial steps of an online voting scheme are already over when the official electoral period starts. Procurement, certification and even system initialization, among others, have likely already been completed before international observers arrive. The criteria to be used for observation should be different. They should

be tailored to a new environment based on IT implementation, new stakeholders and new decision-making procedures. Thirdly, while standard observers are still needed, a comprehensive observation of online voting technologies needs a combination of expertise, such as law, political science or computer science. An interdisciplinary approach and dialogue are necessary as most problems encountered are not caused by IT problems. Therefore, even though conventional election day observation is not possible, expert assessments of the process play an important role.

Country example: Mexico

Mexico is a federal state and, as such, EMBs exist at both central and state levels. This resulted in different initiatives being developed to enhance new election technology solutions and e-voting in particular. State bodies were the first ones to initiate the process with compulsory implementation of voting machines in Coahuila and Jalisco. Online voting experiences were limited and, generally, they intended to give the large Mexican diaspora, mainly based in the US, more opportunities to vote.

In 2006, when Mexico allowed voting abroad for the very first time, there were up to 4.2 million voters who had an electoral ID card and did not reside in Mexico (IFE 2006). Beyond that figure, other citizens, among which were illegal migrants, were living abroad too, but they did not have the chance to go through the formal process of obtaining the appropriate electoral card. Moreover, when voting abroad was planned for the 2006 elections, there were concerns about ensuring that these citizens were correctly registered and authenticated. While asking them to return to Mexico to receive the credential made no sense, channelling the process through Mexican embassies and consulates was not an option either.

Mechanisms through which citizens might cast their ballots have evolved since 2006. Mexico has been testing different solutions, and online voting was not the first one. Instead, first implementations relied on postal voting only. From a mere quantitative angle, the outcome was limited, given that only 40,876 completed the registration process and 32,621 voted. While the turnout was high compared with the number of voters and registered voters, this was no longer the case when taking into account the entire community of

Mexicans living abroad. In 2012, despite procedural improvements, figures were very similar: 59,115 registered voters and 40,714 votes cast. Finally, in 2018, with similar procedures, figures increased (181,873 registered voters and 98,470 votes cast) but were still very low in comparison with the entire Mexican diaspora. In addition, turnout among registered voters fell to 54.14 per cent for the presidential elections.

Online voting had always been seen as a helpful tool to reach the diaspora and achieve higher turnouts, but it was not implemented at a federal level until the 2021 mid-elections. Before that, priority had been given to other initiatives at the subnational level.

In 2012, online voting was implemented for the first time but only at a subnational level for Mexico City and citizens living abroad. The local EMB, who had already piloted voting machines in 2006, decided to allow online voting for the diaspora. The system was outsourced to the Catalan company Scytl. Similarly to what had happened at a federal level, turnout was very low compared with the number of citizens who could have potentially voted (IEDF 2012). While 4,190 voters were registered for the Internet modality, 6,592 decided to use postal means. The first option achieved 62.98 per cent of actual voters; the second was higher at 80.04 per cent.

The experience in the capital attracted interest, and other Mexican states started developing their own process for allowing citizens abroad to vote—for instance, Baja California Sur (De la Cruz 2020) and Chiapas. In 2015, Baja California Sur managed to implement the system by borrowing the platform from the electoral body of Mexico City, but the project obtained very limited visibility since only 17 voters were registered and 16 votes were cast.

The state of Chiapas experienced some issues in 2015. While there were no specific problems with the technical platform, which was outsourced to DSI Elecciones, collateral procedures and voter registration, in particular, caused considerable damage (De Llano 2015). The local assembly had created a specific seat to represent voters from abroad. One of the candidates for this seat had moved onto the list of voters for this position people who were living in Chiapas. When these voters went to their appropriate polling stations,

they found that they had been transferred to another constituency and were not able to vote.

Despite this incident, EMBs at both state and federal levels maintained their interest in online voting developments and continued to look for ways to resume its implementation. This was the case of Mexico City electoral body, which continued using online voting for civic consultations but not for representative elections. It should be noted that the network of electoral bodies was restructured, the federal one (Instituto Nacional Electoral (INE)) gaining prominence and acquiring new legal functions over state ones. This restructuration led to a moratorium on how and when to restart implementing online solutions.

Finally, once new legislation allowing online voting for federal elections as well was approved, Internet voting was used again in 2021 under INE supervision for federal parliamentary mid-term elections and for 11 local races (OAS 2021: 11–12). At the time of writing, it had been already planned that Internet voting would be used for both federal and state elections in Coahuila in 2023 (INE n.d.).

Country example: Finland

Although it is not an example of an SVA, the experience of Finland when it piloted online voting in the municipal elections held in 2008 is valuable in discussions about the introduction of remote online voting.[2] Three municipalities (Karkkila, Kauniainen and Vihti) introduced Internet voting in a controlled environment: voters went to a conventional polling station and used voting machines to cast their ballots, which were then transmitted to a central data server (Aaltonen 2015).

The tabulation showed surprising results: the total of votes cast through the voting machines was much lower than the number of

2 The system consisted of online voting under supervised electoral environments: voters went to ordinary polling stations, produced their ID cards and, once authenticated, the ballots were cast online using computers connected to the Internet from the polling stations. This solution combines traditional voting machines with online voting, but it would be complicated to categorize it as an SVA, mainly because inclusiveness is not among its intended goals. Accuracy and quick result tabulation might be achieved, but these aims are not usually those of SVAs. However, issues arising might be similar, and it is worth taking stock of cases where online voting has been implemented, whether under supervised environments or not.

voters authenticated and recorded by the polling staff. The results were challenged in court and, given that the difference between the two sets of figures was large enough to change the allocation of seats, the court decided to annul the elections and ordered a repetition.

After appropriate audits were conducted, an operational weakness was found. Some voters had left the polling station without realizing that they had not completed the voting session—by confirming their choices on the final screen—due to a poorly designed interface. The turnout figures therefore did not match. The lesson learned was that it was not the core IT features that had failed: the ballots cast were tabulated correctly. Instead, other peripheral—but no less important—aspects had failed. Usable layouts and appropriate tests with real users had not been carried out appropriately, with serious consequences. While user-friendliness was at stake in this case, other examples show how other non-IT factors (e.g. inadequate legal framework, hasty political decisions, misleading voter education, weak procurement or limited transparency) may be just as important as IT components for successful implementation of online voting.

5.7. **POLLING STATIONS ABROAD**

Concept

In this Handbook, 'voting at polling stations abroad' describes voting in person at a designated, staffed polling station outside of the borders of one's country where the identity of voters is verified and ballots are cast into a ballot box. Where a diplomatic mission only collects postal ballots that are then mailed or transported to the home country for identification and counting, as in Sweden, it is not regarded as a polling station abroad.

Polling stations abroad may differ in several ways from both conventional voting and voting using other SVAs—for instance, voter registration and identification, administration and election day procedures, and transmission of results. Polling stations abroad may combine elements of special polling stations and early voting, meaning that considerations relevant to both also apply.

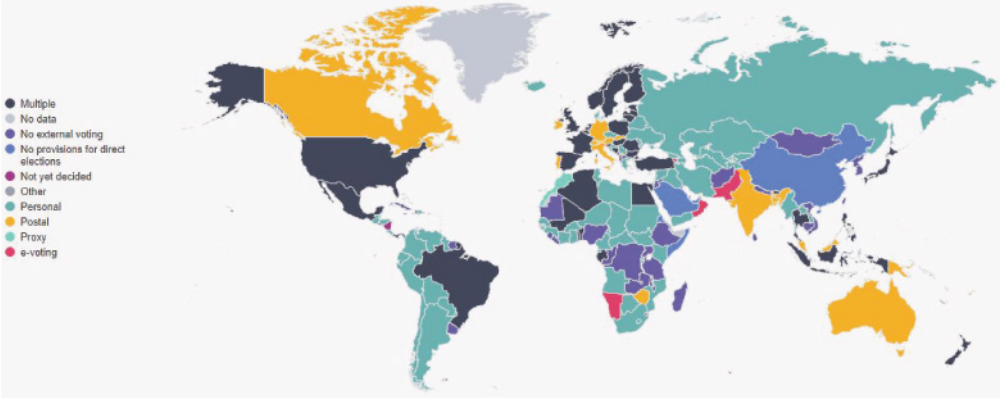
For most states, voting at polling stations abroad takes place primarily at embassies, consulates or other diplomatic missions. States may arrange, however, to use other sites with a host country's permission, to facilitate access for overseas voters. Polling stations at refugee camps, overseas military bases or convention centres in areas with large expatriate communities, are all examples of sites where polling stations abroad have been established.

Global use

Although many countries offer their citizens abroad the opportunity to vote, not all do so. Among those that do, some use means such as postal, proxy or electronic voting in addition to polling stations. Other countries may not provide polling stations abroad, allowing only for voting by one or more of these other SVAs.

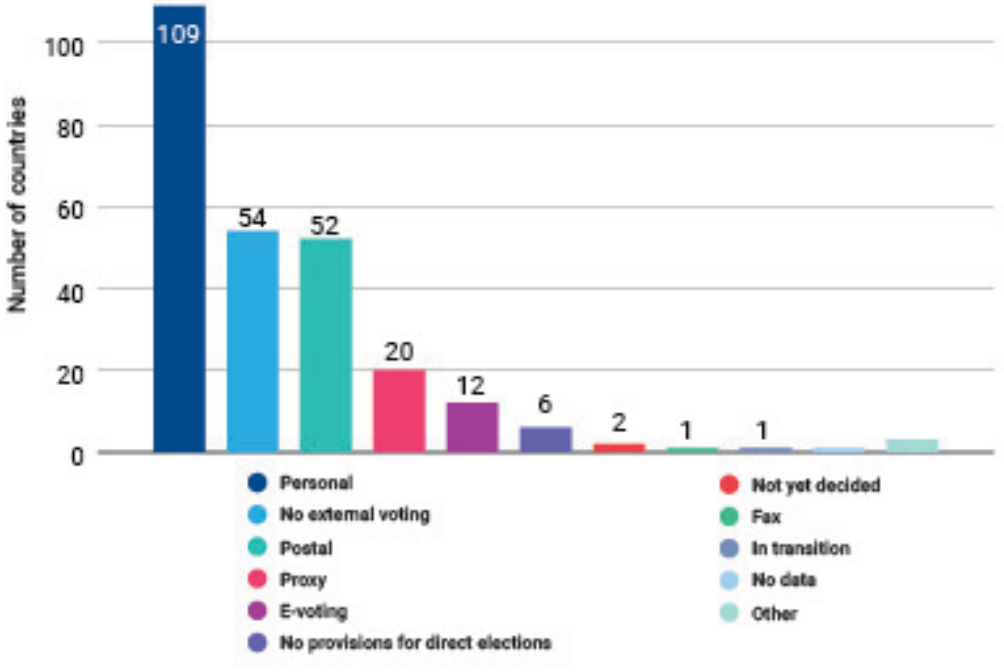
According to International IDEA's Voting from Abroad Database (International IDEA n.d.c), approximately half of surveyed countries allow for 'personal' voting for citizens who are out of the country (see Figure 5.7 and Table 5.5). However, many countries that do not provide an in-person voting option for citizens abroad allow them to vote by post or proxy, or electronically. About a quarter of countries (54 out of 216) do not provide for any external voting.

Figure 5.6. **Voting methods abroad**



Source: International IDEA, Voting from Abroad Database, [n.d.], <https://www.idea.int/data-tools/data/voting-abroad-database>, accessed 5 October 2023.

Figure 5.7. **Voting methods abroad**



Source: International IDEA, Voting from Abroad Database, [n.d.], <https://www.idea.int/data-tools/data/voting-abroad-database>, accessed 5 October 2023.

Of all continents, Africa has the greatest percentage of states allowing for in-person voting abroad (33 out of 55 states, or 62.3 per cent). Roughly half of the states of the Americas, Asia, and Europe employ in-person voting abroad (rates of 40.9 per cent, 59.1 per cent, and 55.1 per cent, respectively). The states of Oceania use in-person voting abroad with much less frequency—only 5 out of 18 states (or 29.4 per cent) provide their citizens with this option (see Table 5.5).

The eligibility of citizens to vote from special polling stations abroad varies by state. Some countries only offer the opportunity to cast a ballot from abroad to small subsets of citizens, such as voters whose official duties require them to be stationed out of country and their families (e.g. Guyana, Lesotho, and Myanmar prior to 2021). In other

Table 5.5. **SVA availability by continent**

Continent	In-person	Postal	Proxy	E-voting	Fax	Other	No external voting	Countries covered
Africa	33 (62.3%)	2 (3.8%)	8 (15.1%)	1 (1.9%)	0	0	14 (26.4%)	53
Americas	18 (40.9%)	6 (13.6%)	2 (4.5%)	3 (6.8%)	0	1 (2.3%)	18 (40.9%)	44
Asia	26 (59.1%)	8 (18.2%)	0	5 (11.4%)	0	1 (2.3%)	11 (25.0%)	44
Europe	27 (55.1%)	29 (59.2%)	7 (14.3%)	2 (4.1%)	0	1 (2.0%)	4 (8.2%)	49
Oceania	5 (29.4%)	7 (41.2%)	3 (17.6%)	1 (5.9%)	1 (5.9%)	0	7 (41.2%)	17
Total	**109 (52.7%)**	**52 (25.1%)**	**20 (9.7%)**	**12 (5.8%)**	**1 (0.5%)**	**3 (1.4%)**	**54 (26.1%)**	**207**

Source: International IDEA, Voting from Abroad Database, [n.d.], <https://www.idea.int/data-tools/data/voting-abroad-database>, accessed 5 October 2023.

cases, eligibility to vote from a special polling station abroad may be available to any voter eligible to vote domestically, provided they follow the necessary procedures to be included on the registry of a polling station abroad.

Policy issues

When considering implementing polling stations abroad, their cost and benefits should be compared with those of other SVAs, such as postal, electronic or proxy voting. Establishing polling stations around the world can be an expensive undertaking for an EMB, foreign ministry and other state actors. In-person voting abroad may require international travel costs for electoral officials, as well as training costs for diplomatic and other personnel who may be called upon to administer the voting and counting processes. If a state has a very small number of citizens abroad in general, or active voters in a particular country, establishing polling stations abroad to collect and record a small number of votes might prove to be very costly per vote.

When considering implementing polling stations abroad, their cost and benefits should be compared with those of other SVAs.

Health and safety risks may be another concern. For example, the Covid-19 pandemic beginning in 2020 prompted some countries (such as Guinea, Niger and South Korea) to restrict in-person voting from polling stations abroad, citing concerns for spreading the virus.

Voting at polling stations abroad may be costly for voters. In instances where the locations of polling stations are limited to embassies, and perhaps only embassies in certain countries, voters may be unable to travel great distances and set aside significant time to cast their ballot in person. The host country may also place restrictions on foreigners' internal movement, which may prevent some voters from reaching polling sites. De facto disenfranchisements may therefore exist. In some cases, when the country of origin has no diplomatic presence, eligible voters may have to cross international borders to reach the site that offers in-person overseas voting, creating another potentially costly barrier. Electronic, postal or proxy voting may well offer less time-consuming and expensive options for some voters overseas.

A number of challenges with voting abroad arise not from the polling process itself but with limitations on other aspects of the electoral process. For example, campaigning by parties and candidates may be prohibitively expensive for most or all parties and candidates. Electoral dispute resolution, including interviewing witnesses and other aspects of complaint investigation, may be difficult to conduct on foreign soil.

Voting at polling stations abroad can be controversial in countries of origin. Expanding the number of stations abroad—and modifying eligibility of overseas voters to vote from these stations—may in some circumstances be perceived as attempts to affect electoral outcomes and may therefore be considered as partisan acts in the country of origin.

The establishment of polling stations abroad is also a decision which requires diplomatic discussion with host countries. There is no automatic right that allows an EMB, an official public body of its own country, to conduct operations in a location which is within the sovereign territory of another country. A series of bilateral hosting agreements will probably be needed: while the technical input in

negotiating these will be provided by the EMB, the ministries of foreign affairs of the origin and host countries will be centrally involved in reaching and enabling signature of the formal agreement. In cases where several states are hosting large refugee populations, host country agreements involving intergovernmental or international bodies regarding how the vote is conducted and who assumes the costs may be required (Fischer 2007).

Host countries may restrict, hinder or prohibit the establishment of polling stations for a wide variety of reasons, including a perceived risk to their own national stability or the possibility of violence. During the Covid-19 pandemic, the use of special polling stations was limited in some host countries because of domestic Covid-19 restrictions: the result was that use of this SVA fell during the pandemic (Asplund et al. 2021). Such issues can arise even when the operation of special polling stations has been previously agreed, as shown by the early closure of the polling stations in Hong Kong for the 2022 elections in the Philippines (Abad 2022).

During the Covid-19 pandemic, the use of special polling stations was limited in some host countries because of domestic Covid-19 restrictions.

A host country may also not wish to reach an agreement when a proposed electoral event goes against its constitutional principles. For example, Germany refused in 2017 to allow in-country polling to take place in a referendum on the restoration of the death penalty, which was under consideration in Türkiye. Host countries may also be reluctant to allow for campaigning, electoral dispute resolution and other aspects of the electoral process in their territory (Lacy 2007: 137–50).

Voter registration and identification

Voters usually need to apply sufficiently ahead of election day to be included on the registry of a polling station abroad. Voters who are overseas for an extended period may be included in a register of voters abroad but may need to renew their registration as eligible voters abroad periodically or before each election. This is to ensure that overseas registries have an accurate list of eligible voters and that these voters are excluded from the domestic voter list. Such measures can prevent inflation of the voter register but, if required too frequently, can also create obstacles to participation. Citizens who register to vote abroad should be marked as such on the voter

register at home, to minimize allegations that someone may cast ballots on their behalf in the home country.

Developing communication strategies for eligible voters overseas can facilitate use and enhance turnout, particularly where establishing polling stations abroad is a new practice. EMBs and other electoral stakeholders, such as expatriate CSOs and domestic political parties, may also participate in education efforts on how to register to vote from overseas and why doing so is important for expatriate voters.

Depending on eligibility requirements, some countries may require that voters abroad be registered to vote domestically, provide documentation of legally registered residence abroad, or possess certain national documentation to vote at polling stations abroad. Meeting these requirements can be burdensome for some voters, such as refugees, who may lack documentation due to crisis evacuation, or voters who have lived their entire lives abroad. Voter registration requirements may therefore be difficult for citizens abroad to fulfil in some cases—for instance, citizens who reside illegally or who have few opportunities to visit their country of citizenship. Addressing such challenges may require establishing special procedures for citizens abroad to register.

Election administration

Administering polling stations abroad requires recruiting and training a sufficient number of polling staff who are already abroad or sending polling staff from the home country. The latter option may add considerable expense to the cost of elections and attract criticism of the election administration. On the other hand, the potential pitfall of staffing polling stations abroad with diplomatic and consular officials is that they may not enjoy the same level of trust as polling staff in the country, potentially leading to disputes and non-acceptance of voting results.

Shipping ballots and electoral materials around the world takes time, and presents another logistical challenge, especially if candidates are registered and ballots are printed close to election day. Procuring electoral materials locally may not be possible due to security considerations and the need to ensure uniform procedures with in-country voting. Care should be taken to allocate enough

ballots in line with expected voter turnout, to avoid tensions and disenfranchisement of eligible voters. A small number of polling stations abroad relative to the numbers of voters may lead to long queues and become a source of conflicts.

Lawmakers and regulators must ensure that provisions for out-of-country voting ensure the effective exercise of electoral rights (e.g. free from intimidation, by secret ballot) and other electoral standards (e.g. proper voter identification, transparency of the voting process). Even with a cooperative host nation, administering a free vote abroad may become challenging since electoral misconduct such as vote buying and voter intimidation may be more difficult to identify and investigate in other countries.

Ballot integrity

Threats to ballot integrity may be internal to the election administration, such as manipulations by polling staff in the absence of effective oversight. The integrity of the process may also be challenged due to the political context and environment in which the vote is taking place. Voters opposed to their home government's leadership may have concerns about attending an embassy or other diplomatic sites. Voters in these circumstances may face intimidation or pressure to vote for the incumbent government. They may also be less likely to trust that their ballot was cast in secret in a way that is not identifiable by authorities. Additionally, host governments may have their own reasons for pressuring voters to vote a certain way and may use different tactics to influence votes at an embassy or at other sites, such as refugee camps.

When there is only one voting day at a polling station abroad, ballot integrity is in principle easier to ensure. Ballot integrity becomes more challenging in multi-day elections, as it does in multi-day elections at any polling stations but possibly with even less access for observers. Securing and storing ballots should be conducted in a transparent and trustworthy manner.

Box 5.6. **Integrity measures for polling stations abroad**

- Publication of voter lists.
- Marking of voters included in voter lists abroad off voter lists at home.
- Publication of voting results after completion of the vote count in the polling station.
- Observer access.

Voting and counting

Election day procedures in polling stations abroad normally do not substantially differ from those in in-country polling stations. Additional staff may be needed to maintain queue control at polling sites with high numbers of registered voters.

Consideration may be given to additional integrity measures during counting, such as video recording of the process, and making records available in case of challenges. Preliminary vote totals at a polling station abroad on election day may be announced on site following the count, subject to confirmation following adjudication of all petitions and appeals. In instances where ballots cast at special stations abroad are transported to a home country for counting, concerns about the security and chain of custody of these ballots may arise, and the EMB should take steps to ensure that observers can verify that there has been no tampering with ballots in transit.

Observation

Partisan and non-partisan observation of the voting process abroad entails significant costs to parties and observation organizations, which may become a barrier to observation if these costs are prohibitive. International organizations may therefore focus on analysing the political environment, the legal framework, and the procedures of the overseas polling station voting and counting processes, and provide an analysis of the processes' strengths and weaknesses, as opposed to providing first-hand reports of observations. Political parties and domestic observer organizations may be able to recruit observers abroad, from among the resident voters. Remote training and reporting by such observers are supported through ICT solutions.

Country example: South Korea

South Korea gives citizens the option of voting at polling stations abroad, primarily from embassies and consulates. Approximately 2.14 million eligible Korean voters lived abroad as of 2021—roughly 4.5 per cent of all eligible voters (Ji-hye 2021). In 2020, there were approximately 172,000 Korean voters who had registered abroad (Spinelli 2020: 5).

As of 2020, citizens registered in Korea who plan to be overseas on election day may apply for an overseas absentee ballot, which they may cast at a special polling station during the designated overseas voting period (Korea 2020: article 218).

Following a Constitutional Court decision in 2007, Korean citizens permanently residing abroad are granted the ability to register to vote at special polling stations overseas (Constitutional Court, Republic of Korea 2007). Citizens permanently residing abroad who are not registered domestically may apply to join an overseas voter registry and vote from polling stations abroad (Korea 2020: article 218).

Voter turnout among Koreans registered to vote from abroad dropped significantly in 2020. In previous elections, turnout among this group worldwide had been 75.3 per cent (2017 presidential elections); 41.4 per cent (2016 National Assembly elections); and 71.1 per cent (2012 presidential elections) (Spinelli 2020: 5, fn. 11). Because of the Covid-19 pandemic, polling stations abroad serving more than half of voters abroad were closed during the 2020 National Assembly elections, contributing to only 23.8 per cent turnout of voters registered overseas (Spinelli 2020: 5).

The distance that some voters must travel to access polling stations, and the cost of doing so, have been the subjects of complaints by overseas voters residing in several countries. The Covid-19 pandemic, and the resulting decision to close many polling stations abroad during the 2020 National Assembly elections, have further fuelled the demand for a postal voting option for overseas Korean voters.

As the *Korea Herald* reported, in November 2020 an association of Korean citizens living in Australia, Brazil, China, Japan and the US filed a petition with the Korean president seeking the ability to vote by

mail (Ji-hye 2021). The petitioners complained that under the current conditions they would have to 'drive, fly or take a train for hours' to access an embassy or consulate conducting voting operations (Ji-hye 2021).

Korea's National Election Commission (NEC) has expressed caution about allowing postal voting for overseas voters, citing the varying reliability of postal systems in different countries. The NEC recommended to the National Assembly in May 2021 that postal voting only be authorized 'if voting is impossible at polling stations due to infectious diseases or natural disasters in the host country' (Ji-hye 2021).

5.8. **POSTAL VOTING**

Concept and variations

Postal voting in this Handbook refers to the voting method where voters receive and mark their paper ballots in an uncontrolled environment (e.g. home) and then send the filled ballots in a return envelope with their personal details to EMBs for processing and counting. The term 'postal' makes a historical reference to the postal service, which has been the primary, and often only, channel enabling the delivery of blank ballots and the return of filled ones. In contemporary versions of this method, voters may access the ballot electronically, print it, and deposit the filled ballot at a polling station in person on or before election day, or place it in a secure dropbox or other container. For example, in elections in the US states of Colorado, Oregon and Washington in 2016, although citizens received their ballots by mail, a majority of voters in each state returned their ballot physically to an election office or secure dropbox (MIT Election Data and Science Lab 2021a). Such dropboxes may also be located in post offices, as in Western Australia. In this Handbook, all these options are covered by the term 'postal voting', although other terms exist to denote this voting method, such as 'by-mail voting' or 'distance voting' (Wally 2020). Postal voting is used synonymously with 'absentee voting' in some countries, such as the US. However, in other countries 'absentee voting' has a different meaning, for example voting in person at a polling station outside the voter's precinct.

The principal variations in postal voting are based on whether it is offered to all voters or only selected categories, as well as whether voters need to apply to receive a ballot or it is mailed to them automatically. These criteria may overlap, but they are not the same. Where postal voting is available only to selected categories of voters, they must meet certain eligibility criteria and usually have to apply to receive a ballot ahead of the election. After an initial application, there may also be an option to be included in the permanent register of postal voters. Eligibility criteria may be restrictive (e.g. voters abroad) or broad (e.g. in Spain postal voting is available to everybody 'who expects to be absent or otherwise unable to cast their vote in person on election day') (International IDEA n.d.b). A postal ballot may also be made available to all voters who ask for it, without preconditions but subject to a prior request. In some cases, postal ballots may be sent automatically to a selected category of registered voters (e.g. to all voters aged over 70 in the Netherlands' 2021 parliamentary elections) or to all voters. The system where postal ballots are automatically mailed to all registered voters, as it is done in the US states of Colorado, Hawaii, Oregon, Utah and Washington, is also known as 'universal postal voting'.

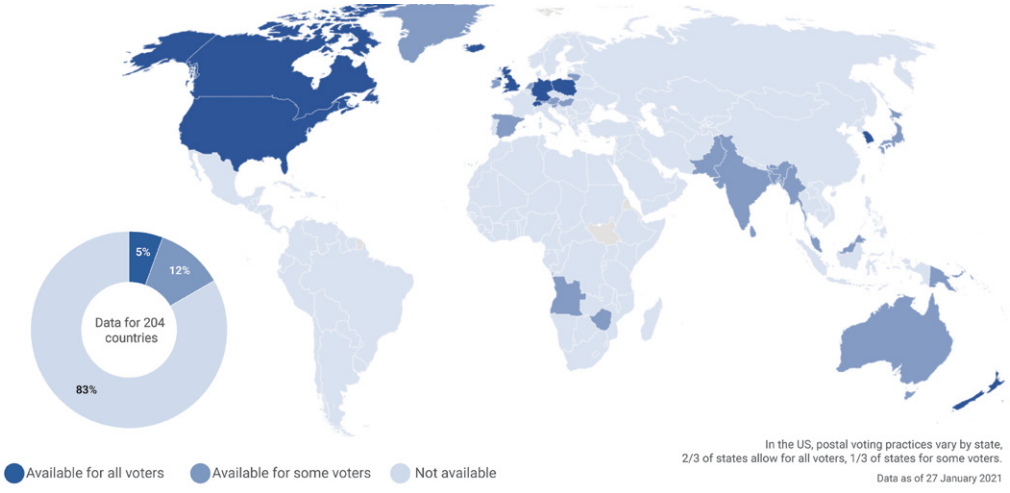
Other varieties of postal voting revolve around different operational modalities, such as the methods of delivery of postal ballots and the methods of their return, as well as security safeguards related to voter identification and protection of the ballot.

Global use

'Postal voting and proxy voting are permitted in countries throughout the western world, but the pattern varies considerably. Postal voting, for instance, may be widespread in one country and prohibited in another owing to the danger of fraud' (Venice Commission 2002: 21–22, section 3.2.2.1).

International IDEA's survey found postal voting for in-country voters to be more common in Asia, Europe and Oceania. Europe has the largest number of countries that make in-country postal voting available to all or some voters (14). Postal voting is very rarely used in Africa. Following the emergence of the Covid-19 pandemic, postal voting garnered significant interest in many countries as a safer alternative to conventional voting.

Figure 5.8. **In-country postal voting by country**



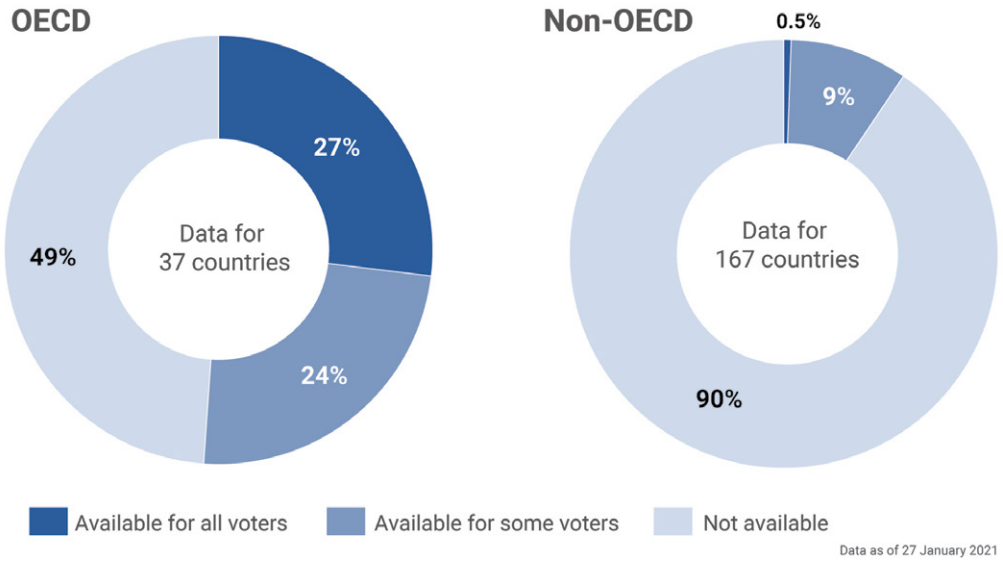
Source: Developed by the authors.

In-country postal voting is more frequently available to a specific group of voters, although in Canada, New Zealand, South Korea, the US and several European countries it is available to all voters.

In Europe, 13 countries allow in-country postal voting. In addition to the seven countries (Germany, Iceland, Liechtenstein, Luxembourg, Poland, Switzerland and the UK) that allow postal voting for all voters, there are a further six countries that provide postal voting for some groups of voters (Austria, Ireland, Lithuania, the Netherlands, Slovenia and Spain). In the Americas, Canada allows in-country postal voting for all voters. In two-thirds of the states in the US, any qualified voter can utilize postal voting, while one-third of states require a justification. Greenland allows in-country postal voting for some voters.

In Asia, seven countries allow in-country postal voting. In addition to South Korea, which allows postal voting for all voters, there are a further six countries which allow postal voting for some voters: Bangladesh, Bhutan, India, Japan, Malaysia and Pakistan. Seven countries in Oceania allow in-country postal voting. In addition to

Figure 5.9. **In-country postal voting in OECD vs. non-OECD countries**



Note: OECD = Organisation for Economic Co-operation and Development.
Source: Developed by the authors.

New Zealand, which allows postal voting for all voters, Australia, Fiji, Marshall Islands, Micronesia, Palau, and Papua New Guinea provide postal voting for some voters. In Africa, in-country postal voting is very limited, with one country (Zimbabwe) allowing this type of SVA for some eligible voters.

In OECD countries, the use of in-country postal voting is much more widespread compared to non-OECD countries: 27 per cent of OECD countries allow in-country postal voting for all voters, while only one country (Liechtenstein) in the non-OECD group does the same. In-country postal voting is available for some voters in 24 per cent of OECD countries, while this figure is only 9 per cent in non-OECD countries (see Figure 5.9).

When it is not available for all voters, in-country postal voting is used for various categories of voters who, for various reasons, may be unable to cast their vote in person on election day. For example, in

Australia (Electoral Act 1918), postal voting is available for several categories of voters:

- voters who will be absent from their state or territory on election day or travelling under conditions which prevent them from attending a polling station;
- voters who will not be within 8 km of any polling station within their state or territory by the nearest practicable route;
- voters who will be unable to attend a polling station due to serious illness or infirmity, because they are approaching childbirth, or because they are caring for a person with such conditions;
- voters in hospitals without an opportunity to vote there;
- voters who are precluded from attending a polling station because of religious beliefs or membership of a religious order;
- voters in detention and imprisonment;
- voters whose address is excluded from the electoral roll due to risk to their personal safety; and
- voters who on election day will be engaged in their employment and occupation.

Some of these and other eligible voters, including persons with disabilities and overseas voters, may apply to register as general postal voters, which means they will receive postal ballots automatically, without the need for a new application ahead of every election.

Pakistan provides another example of those voters who are entitled to a postal ballot:

- voters in the service of Pakistan temporarily resident away from home, their spouses and children;
- voters performing any duty in connection with the election at a polling station other than the one where they are entitled to vote, including police;
- voters holding an identity card showing their registration with physical disability who are unable to travel; and
- voters detained in prison or held in custody.

In conflict and post-conflict environments, it may be appropriate for women to be a special target group for postal voting (United Nations 2013: para. 7l).

Policy issues

Postal voting is a convenient option for voters who may be unable to cast their ballot in person on election day. However, its successful administration hinges on a number of conditions, which should be carefully weighed by decision makers. The most obvious is the availability of dependable postal services. The Council of Europe's Venice Commission appropriately noted that 'postal voting should be allowed only where the postal service is safe and reliable' (Venice Commission 2002: I.3.2.iii). Additionally, ensuring that ballots do not go astray, especially on their way back to the EMB, requires tracking of mail delivery.

The most important issues to take into account when considering postal voting relate to preserving integrity. As this SVA takes place entirely in an uncontrolled environment, election officials are not there to verify either the identity of the voter marking the ballot, or that the ballot is marked freely and in secret. Postal voting may employ a number of safeguards that substantially mitigate integrity risks, as discussed below. However, the freedom of the voter's choice cannot be guaranteed to the same extent as with conventional voting. Therefore, in settings where interference with the free and secret expression of the voter's will is a significant concern, whether through intimidation and coercion or through clientelism and vote buying, postal voting is not a suitable option. Stakeholders in several countries debating postal voting have expressed concerns about the risks of fraud, intimidation or vote buying that may exist with a widely used postal voting arrangement.

The most important issues to take into account when considering postal voting relate to preserving integrity.

The introduction of postal voting requires investment into equipment and additional personnel. Security safeguards may also be costly. Postal voting operated alongside conventional voting adds to the costs of election administration, and its benefits should therefore be considered also against the associated costs. Postal voting is known to reduce election administration costs when the vote is held *only* through postal voting. In Australia and New Zealand, national referendums held entirely by postal voting reportedly cost

significantly less (less than half) than national elections held by a combination of the conventional voting method and SVAs (Wally 2020: 17). However, these comparisons are based on the existence of a postal service that is already well developed, and do not take into account the initial investment costs of setting up its infrastructure.

Voting in an uncontrolled environment places additional emphasis on the importance of voter information, which should be provided through a variety of means to reach different categories of voters, and of clear and easily understood voting instructions distributed with postal ballots. Further, the timeline of postal voting needs to be synchronized with other electoral timelines, in particular for the registration of election contestants, and campaigning.

Voter registration and identification

Postal voting relies on the accuracy of the voter register to deliver postal ballots. The risk of ballots going astray is decreased where voters need to request a postal ballot (providing their updated address), compared to systems where ballots are mailed out automatically. At the same time, convenience for voters and overall voter turnout both increase where ballots are sent out without a prior request or application, based on a permanent postal voter register. Such systems need to offer options for voters who do not receive their ballots, for example because they did not register their address change. Accuracy of delivery may be improved through prior notification, reminding voters to update their addresses.

Importantly, voter registration systems need to include sufficient safeguards against fraudulent registration for the purposes of obtaining postal ballots.

Importantly, voter registration systems need to include sufficient safeguards against fraudulent registration for the purposes of obtaining postal ballots. Generally postal voters must provide identification documentation before the voting process occurs, as well as a signature attesting to their identity and other personal information when casting a postal ballot. The lack of such safeguards can be painfully exposed, as happened in the UK's 2004 local elections in Birmingham. Candidates and party agents were able to obtain and alter completed postal ballots; they also obtained a large number of blank ballot papers, which they used to impersonate legitimate voters. These manipulations were made possible by weaknesses in the voter registration system, which required only a person's name and address for registration, without any personal

identifiers. The returning officers who processed applications for registration had no obligation to check the validity of submitted information and few resources to do so. Voters were legally allowed to register in different localities, as long as they maintained residence there. These weaknesses made postal voting fraud 'childishly simple', in the words of international rapporteurs (PACE 2007).

Election administration

Compared to conventional voting, postal voting requires different procedures, equipment, and skills from polling staff. As with other SVAs, initial introduction of postal voting on a large scale is not advisable in countries that have little or no prior experience with this voting method. By rolling out this SVA in stages, it is possible to learn from mistakes, evaluate procedures, calibrate costs and, crucially, maintain public confidence in the process.

As a first step, administration of postal voting involves the distribution of blank ballots to eligible voters. In addition to mailing ballots by post, blank ballots may be sent electronically via email or made available for downloading. In this process, some ballots may get lost or bounce back because voters do not always communicate changes to their contact details in a timely manner. These losses do not necessarily compromise the integrity of the vote, as long as the returned filled ballots are verified to establish that they originated from eligible voters. At distribution stage, the aim is to ensure that all eligible voters obtain a blank ballot. Consideration should be given to a procedure for replacing a lost ballot if requested by the voter within a reasonable deadline.

Since voters need to fill the blank ballots and return them to the EMB, they should also receive return envelopes and instructions on how to fill their ballots correctly and how to send them back. There may also be additional enclosures, such as declarations, witness statements, or a copy of the voter's identification document, which the voter needs to return together with the ballot. Postal voters may be required to return ballots in specific envelopes provided, or to follow other procedures to ensure that their vote is validly cast and counted—for example, in Austria's Federal Presidential Electoral Act (Republic of Austria 1971: article 57). To protect secrecy, a marked ballot is typically placed in a separate (inner) envelope,

which, together with other required enclosures, is placed in the return (outer) envelope. There is a wealth of advice on how to make voter instructions clear and user-friendly, and thus decrease the number of errors in returned postal votes (see also the US country example below). Experience across several electoral cycles also helps to reduce errors. Design of election mail requires guidance from the postal service, as it needs to comply with its standards.

Once the ballot is filled, it needs to be returned to the EMB. If this is done by post, it is preferable to use options that allow tracking of mail, such as intelligent mail barcoding. The return postage may be paid for by the EMB to facilitate return and reduce the cost of participation—as, for example, in South Korea, where registered mail is used, which adds to the operational costs of postal voting. For voters abroad, pre-paid postage needs to be recognized as such by postal services of other countries (South Korea 2020: article 154(4)). Voters may also be given an option to return postal ballots to specific locations or dropboxes, without the use of post. If such drop-off locations or boxes are set up, specific procedures for their operation need to be developed, including opening hours, the number of staff operating them, and receipt and storage of ballots. If unattended dropboxes are used, they need to be sufficiently secured and swept regularly, with increasing frequency closer to election day.

Finally, national postal systems may vary in reliability or quality within a jurisdiction: they may then be open to claims of unfair or discriminatory treatment by some postal voters. Ballots could be delayed, lost or damaged: a high-performing postal service is therefore an essential condition for postal voting. Postal voting 'should [not] be widely encouraged if problems with the postal service are added to other difficulties inherent in this kind of voting, including the heightened risk of "family voting"' (Venice Commission 2002: 21–22, section 3.2.2.1).

Ballot integrity

Checks need to be carried out on returned ballots to verify that they were filled by the intended eligible voters. Different safeguards (and their combinations) may be employed for this purpose. For example, a voter may need to enclose a declaration of identity, a witness statement or a copy of their identification document with

Box 5.7. **Integrity measures for postal voting**

- Voter declaration.
- Witness statement.
- Copy of voter's identification document.
- Voter's individual password.
- Double envelope system.
- Chain of custody of handling (storage, verification, count) of received ballots.
- Voter identity verification before vote count.
- Signature verification.
- Provision of ballot tracking for voters.
- Provision of 'curing' of defective ballot packages that have not been accepted (i.e. remedying issues, such as providing a new signature).
- Observer access.

the returned ballot. In Australia, voters need to include an answer to a confidential question which they submit when they register for postal voting (Electoral Act 1918). In India, the voter must sign the declaration of identity in the presence of a magistrate or an official specified in the regulations, who attests the voter's signature (India 1961: part III section 24(2)). In the majority of states of the US, voters are required to return a signature, which is compared to the signature filed with the voter's registration record. Three states require returned signatures to be certified by a notary (NCSL 2022: Table 14). Other integrity measures include chain of custody records, designed to avoid interference with ballots in transit and during processing.

With the appropriate legal framework, robust voter registration and sufficient verification safeguards, the risks of double voting, voter impersonation and multiple voting may be brought to a minimum. However, integrity risks related to undue influence on voters, such as coercion or vote buying, are impossible to rule out entirely in uncontrolled environments. Where such challenges are known to mar elections, postal voting should not be used. Voters may be required to assert that they have cast their ballots secretly, although there is no effective way to ensure that a voter has in fact done so.

With the appropriate legal framework, robust voter registration and sufficient verification safeguards, the risks of double voting, voter impersonation and multiple voting may be brought to a minimum.

From the time filled ballots are sent and reach the EMB, it is important to maintain a record of ballot 'chain of custody'—that is in whose care ballots are placed (including for storage) at any particular

point in time. Processing of received ballots involves verifying the voter's identity before the ballot is accepted and counted. This takes time, as the information provided needs to be matched with the voter's record.

Voting and counting

Rules for handling inner and outer envelopes and counting of postal votes differ between countries, with each system having different advantages and disadvantages. To save time, polling staff may start some preparations for the postal vote count before election day. This may include opening the outer envelopes, which is an acceptable preparatory step before the vote count in some countries. In other countries, opening both envelopes is part of the formal counting process. The opening of inner envelopes and counting of votes is, in some countries, done only on or after election day, to avoid results being partially disclosed. In other countries, postal ballots can already be fully counted before election day in order to have full results, including the postal vote, as soon as possible. Early processing also allows enough time for voters to address potential issues which can be remedied, such as providing another signature sample ('curing' ballots). Usually, there is a cut-off date for when ballots must be received by the election administration to be included in the count. This can be shortly before, on, or even a few days after election day. There may also be cut-off dates for postmarking the outer envelope on or before election day. Some jurisdictions allow postal ballots properly postmarked by election day to be counted days after the election.

It is important that the legal framework provides clarity about which processing steps are to happen when, and what the cut-off times for accepting postal ballots are.

With so many variations, it is important that the legal framework provides clarity about which processing steps are to happen when, and what the cut-off times for accepting postal ballots are. Training for polling staff to correctly implement these rules is essential as any mistakes can lead to appeals against the validity of the vote count (Asplund 2023).

Even with the best instructions, some voters will make mistakes with the returned postal vote. Clear and sufficiently elaborate guidance needs to be developed for polling staff processing postal ballots for acceptance. Common mistakes include missing any required signatures, not putting the marked ballot into the inner

envelope (called 'naked ballot'), putting unnecessary enclosures into the inner envelope or not including the necessary enclosures. Some of these errors may be remediable without jeopardizing vote secrecy. Consideration should be given to developing systems where voters are notified that their ballots are received, and if they are not accepted. Systems that allow voters (all or only overseas voters) to track their ballots and receive such information are available in 19 states of the US, including California, Florida and Michigan (NCSL 2022).

As postal votes are paper-based, the vote counting is not different from regular paper ballots. Additional time and resources need to be planned if ballots are only extracted from inner envelopes on election day, such as envelope slicing machines if large numbers of ballots are being processed. After counting, postal vote documentation should be securely stored, at least until all election challenges are resolved with final decisions.

Observing

Postal voting may be observed during the stages when ballots are in the custody of the election administration. Compared to conventional voting, when the entire process of polling in a particular polling location may in principle be observed in a day, postal voting takes place over a longer period of time, so observer organizations need to plan their resources accordingly. Processing of returned ballots and their acceptance are the stages of particular interest for observation, when decisions affecting electoral rights and integrity of the process are made by polling staff.

Rejection rates of postal ballots

Information about rejection rates of postal ballots is often not published systematically. In some countries, postal vote processing is decentralized and happens at local or regional level. In many instances this local-level data is neither consistently published nor aggregated for the whole country. Statistics may also obscure the rejection rates when only the number of 'invalid' ballots is published, that is ballots which have been accepted for counting but ruled invalid because they are not filled correctly. This does not include postal ballots which are rejected because they do not contain the necessary enclosures to identify the voter or the ballot itself.

Table 5.6. **Indicative rejection rates**

Country	Indicative rejection rates of postal voting packages
Australia	2019 New South Wales (NSW) state election: 19.4% invalid and 4.9% received late (NSW Electoral Commission 2019: 59)
Austria	Approximately 4% over many years (Wahlbeobachtung.org 2021)
Fiji	10.6% invalid and 0.5% received late (Saneem 2019: 101)
Germany	Approximately 3% (Wildmeister 2020)
Hungary	15.6% (OSCE/ODIHR 2018a)
Ireland	2.0% in 2020 increasing from 1.6% in 2016 (Houses of the Oireachtas 2016, 2020)
Liechtenstein	1.2% in 2020 (Information und Kommunikation der Regierung 2021) decreasing from 2.1% in 2005
Poland	3.5% in 2020 (Dziennik Ustaw Rzeczypospolitej Polskiej 2020)
United Kingdom	2.4% in 2017 decreasing from 3.8% in 2010 (UK Electoral Commission 2017)
United States	0.8% in 2020 (US Election Assistance Commission 2021), after 1.4% in 2018 and 1% in 2016 (Ballotpedia 2021)

Source: Developed by the authors using EMB and EOM data and reports.

Countries which report postal vote rejection data at the national level include Fiji, Ireland, Liechtenstein and the UK. In other countries this information is often only published at the local level or even only provided in interviews with election officials. Table 5.6 includes indicative rejection rates collected from various sources.

Reasons for rejection

Similarly to rejection rates, the reasons for rejections are not systematically made public. Fiji's published data from 2018 shows that the vast majority of its postal votes were rejected on account of error: less than 5 per cent of rejections were the result of being received late. In New South Wales in 2019, 69 per cent of the received postal votes that were ruled as invalid were rejected because of wrong use, or failure to use, the ballot inner envelope.

Data on the 2016 and 2018 general elections in the US from the US Electionl Assistance Commission (2021) and Pew Research Center (DeSilver 2020) shows that the main rejection reasons were not matching signature, missed deadlines, and voting signature missing. A study of rejections at the 2020 general election (MIT Election Data and Science Lab 2021b) concluded that states that used double layer systems of voter verification (both witness and signature) recorded rejection rates between two and five times higher than the national average, and that the addition of ballot curing to a signature verification system lowered rejection rates, and thus helped legitimate voters.

Country example: United States

Background

The origins of postal voting in the US are traced back to war-time elections, when soldiers were given the opportunity to vote at the front lines. Many of these arrangements originated during the Civil War: while some involved polling stations in the field, Minnesota enacted in 1862 the first example in the US of military postal voting (Collins 2014: 31). In the 1864 presidential election, soldiers on both sides were able to cast ballots from their battlefield units and have them be counted back home (MIT Election Data and Science Lab 2021a). During World War I, nearly all states let soldiers vote from afar (Waxman 2020).

With the adoption of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) by Congress in 1986, states and territories were mandated to provide the possibility of absentee voting in elections for federal offices to personnel and family members of the US Uniformed Services and Merchant Marine, as well as for citizens residing abroad (US DOJ 2022). UOCAVA was expanded in 2009 with the Military and Overseas Voter Empowerment (MOVE) Act, which, among other provisions, required states to transmit absentee ballots to UOCAVA voters no later than 45 days before a federal election, when the request had been received by that date (US DOJ 2010).

Starting from the late 1800s, states began to also provide absentee voting for non-military in-country voters who had reasons for not being able to vote on election day, such as work or serious illness.

This trend continued in the 20th century. In 1978, California became the first state to allow absentee voting for any reason, including voters' convenience (Waxman 2020). Other states followed, and by 2020 'no-excuse' absentee voting became available in the majority of states. Following a referendum in 1998, Oregon began to issue all its ballots by mail. This example was followed by Colorado, Hawaii, Utah and Washington. In 2020, California, District of Columbia, Nevada, New Jersey and Vermont also mailed ballots to all voters as a Covid-19-related measure, while Montana allowed counties to decide whether to mail ballots to all registered voters in their county (MIT Election Data and Science Lab 2021a).

Legal framework

While military and overseas postal voting is provided for by federal laws (UOCAVA and MOVE Act), in-country postal voting is regulated by states, who leave counties to make some decisions at their discretion. State laws differ in many respects, including: who is entitled to postal voting; how and when applications for postal voting are made and how they are verified; when postal ballots are mailed and how they are collected; how and when postal ballots are processed and counted; and how voting results are reported. In addition, judicial precedents may affect the implementation of specific rules. The resulting regulatory amalgam does not lend itself to a meaningful overview at the national level, but comparisons between states offer a rich pool of electoral practices.

Use of postal voting

Surveys show that the use of postal voting in the US national elections steadily increased in the last two decades from around 8 per cent in 1996 to 21 per cent in 2016. In 2020 the Covid-19 pandemic prompted a surge in the number of voters who used mail voting to 46 per cent.

Survey results show that white, Hispanic and Asian American voters used postal voting more often than black voters. In 2020, about 38 per cent of black voters said they voted by mail, compared with 45 per cent of white voters, 51 per cent of Hispanic voters and 66 per cent of Asian American voters. Voters aged 65 and older were found to use postal voting more often than younger voters. In 2020, similar shares of voters aged 18–34 (44 per cent), 35–49 (42 per cent) and

50–64 (41 per cent) said they voted by mail. Among those 65 and older, the majority (55 per cent) said they used postal voting (Pew Research Center 2020).

Although the use of postal voting considerably increased overall in 2020, this does not mean that all postal ballots were returned by mail. In fact, in states that distribute all their ballots by mail, voters returned most of them without the use of post. For example, 91 per cent of voters in Colorado, 71 per cent in Oregon, and 70 per cent in Washington returned their ballots to some physical location such as a dropbox or local election office (MIT Election Data and Science Lab 2021a). The ratio of voters who returned ballot by post decreased from two-thirds in 2016 to about half in 2020 (Stewart 2021).

Long-standing experience with postal voting under a variety of regulatory approaches makes for a vast pool of knowledge and resources related to postal voting in the US. Innovative tools and practices also emerge through collaborative efforts of election administrators, non-governmental organizations and the private sector. Resources such as advice on designing clear and user-friendly ballots and electoral materials developed by the Center for Civic Design can be applied in other countries with minimal modifications.[3] Other experiences may offer lessons and considerations for policymaking. For example, matching voter signatures submitted with postal ballots with the signature samples on file can be assisted with IT solutions. Such solutions now successfully match around 40 per cent of signatures, while the rest must be reviewed manually by polling staff, who often work in bipartisan teams to increase confidence in the process (Center for Tech and Civic Life 2020; NCSL 2022).

Reform discussions and prospects

The steady expansion of postal voting in the US shows that voters are generally comfortable with this voting method. Over 60 per cent of voters support the idea of running all votes by mail (Stewart 2021). However, postal voting is one of the areas where partisan divisions are visible and pronounced. Republican voters have historically been less confident in postal voting than Democrats. The unwillingness

3 Center for Civic Design, Field Guides, available at <https://civicdesign.org/fieldguides>.

of the losing presidential candidate to concede defeat in 2020 and his vocal allegations of electoral fraud (Reuters 2021) further polarized attitudes about election administration. While 93 per cent of Democrat voters were confident that their votes were accurately counted nationwide in 2020, only 23 per cent of Republicans felt the same (Stewart 2021). This polarization is unlikely to be overcome quickly and may be expected to affect reform discussions in the future.

States' regulations on postal voting have tended to evolve along a continuum: from requiring justification for requesting an absentee ballot, to allowing requesting such ballots without justification, to automatically sending mail ballots to all registered voters. If this trend continues, more states will join the 'no justification' regulatory model and the 'universal' postal voting model. At the same time, the increase in voters who prefer to return their ballots in person rather than by post means that postal voting will not entirely supplant the conventional voting method. In the future, states will likely continue to provide different options for voters to return ballots, and an opportunity to vote in person for those who prefer to do so.

Country example: United Kingdom

A review carried out by a member of parliament, Sir Eric Pickles, who was appointed Anti-Corruption Champion by the prime minister, examined ways of preventing electoral fraud. The Pickles report, published in August 2016, discussed the different measures put forward with the aim of securing electoral integrity, including in relation to proxy voting and postal voting (Pickles 2016).

The report noted that postal voting was assessed by many respondents as the voting channel most vulnerable to electoral fraud. Particular problems raised in the report relate to the behaviour of political party canvassers, who not only encourage people to apply for postal voting but frequently handle the completed postal ballot packs. The lack of safeguards in certain procedures was noted, such as the option of having the postal ballot mailed to an address different from the voter's registered address, as well as the process of granting a signature waiver at a voter's request. Such vulnerabilities created opportunities for fraud by unscrupulous party

operatives, particularly in ethnic minority areas where many eligible voters do not have command of the English language.

At the same time, the report pointed out that the availability of postal voting encourages many electors to use their vote and engage with the democratic process, and that abolishing postal voting would therefore be a disproportionate step. The report's recommendations for improving the current system included extending the legal protections of ballot secrecy to postal voting; banning political campaigners/activists from handling completed postal votes and postal vote envelopes, with the exception of family members and designated carers; requiring attestation for any request to waive the need to provide a signature for a postal vote; removing the option to permanently request a postal vote and limiting the specified period for which a postal vote could be requested to three years, after which a new application should be submitted; and providing guidance in postal ballot packs on the secrecy of the vote and how to report electoral fraud.

The Pickles report contributed to legislative changes that were ultimately enacted in 2022. The extension of the legal protection of ballot secrecy to postal voting and the banning of political campaigners/activists from handling postal voting materials were both included.

5.9. **PROVISIONAL VOTING AND TENDERED BALLOTS**

Concept

The tendered or provisional ballot is another of the earliest modern forms of SVA. It differs from other SVAs in that it is not designed to promote electoral participation and inclusion of a particular group, or of the electorate as a whole.

The purpose of a tendered or provisional ballot is to respond to a person who claims the right to vote but is refused: it has always been essentially a 'second best' option for the voter. It is cast autonomously, in an ordinary polling station and on election day, but it is considered as an SVA because subsequent validation of the ballot is required before it can be counted. Voters are not necessarily

involved in this later phase and may not even know whether their ballot was ultimately rejected or counted.

The adoption of the tendered vote in the UK in 1832 predated the secret ballot and resulted from the introduction of the formal voter register. It was initially designed to respond to a request to vote made by a person who had been refused registration: soon afterwards, the provision was extended, to cover the situation when a request to vote was made by a person who appeared on the register but had been already marked by the polling officials as having voted (Cooke 1857: 64–65).[4] The tendered vote was recorded on a separate list by the polling official but not included in the count. It could, however, be used as evidence to support a formal challenge to the result.

The tendered ballot remains in use in the UK, where it is also now available for voters who have not received their postal votes (UK Electoral Commission 2022: 38–39); its use is, however, uncommon. It is found also in some countries whose electoral legislation is descended from that of the UK, such as Botswana (Botswana Electoral Act 1968 amended up to 2012: article 62), New Zealand (New Zealand, Electoral Act 1993: article 171), and the Solomon Islands (Commonwealth 2020).

A number of US states developed the system of the provisional ballot, where a voter whose eligibility is not fully ascertained is admitted to cast a ballot that will only be accepted for counting if and when the voter's right to vote is finally confirmed. Voters who were not on the register at the polling station and those with doubtful credentials would not be turned away.

The provisional vote mechanism intends to deactivate tensions and disputes at polling stations.

The provisional vote mechanism intends to deactivate tensions and disputes at polling stations. In the 2000 US elections, a large number of voters could not cast a ballot due to problems with voter registration (Caltech/MIT 2001: 8). The option of provisional ballots was then extended across the whole of the US, except for states with election day registration and states that do not conduct voter registration, by the Help America Vote Act (HAVA) electoral reform in 2004 (MIT Election Data and Science Lab n.d.c).

4 The initial provisions were included in the Reform Act 1832, and the subsequent extension in the Parliamentary Voters Registration Act 1843.

Policy issues

Tendered ballots lead to a demanding procedure in terms of implementation policies. Polling staff awareness is crucial because voters will be asked to use an exceptional procedure, which could result in annoyance, apathy or reluctance. Polling staff could be tempted to admit voters with doubtful eligibility and at the same time reject voters without considering the option of a tendered ballot. For a polling staff member, this will be easier than initiating a complex procedure where extra administrative burdens apply. Adequate training and a post-election evaluation would be useful tools to address any bad practices.

Along the same lines, sensitive material (i.e. a ballot already cast) will have to be handled on an exceptional basis, using a sophisticated procedure that differs from the ordinary one. Specific materials will be needed, such as envelopes or different forms (e.g. affidavit, list of provisional ballots, results form). Moreover, regulations and operational guidelines will have to be discussed and approved as guidance to be followed by all actors involved. The handbook for polling staff will contain the specifics of the procedure.

In legal terms, tendered ballots will need to be foreseen by the electoral law itself, that is, at a statutory level. The mechanism deals with the right to vote of certain people. It may also cause disenfranchisements or, if badly applied, admit ballots from non-eligible voters. Fundamental rights are at stake, and therefore a law is needed. It should also indicate who will be designated to resolve these cases and the criteria to apply. On the other hand, practical arrangements may rely on EMB regulations.

Costs are usually not the main challenge. There would be supplementary financial needs, such as extra procedures or time for the adjudication process or additional training hours to cover the subject, but they would be residual and embedded within normal activities. Typically, no extra staff would be required either.

Voter information is an important condition for a full acceptance of the system. Consideration should be given to the way by which a voter expecting to cast a normal ballot is informed—normally on election day, in an open polling station—that their ballot would

need subsequent validation and not be automatically included with the other ballots. Thus, extra attention should be paid to the voter—so that they are convinced of the fairness and transparency of the process—and to the management of the polling station more generally, when the offer of a provisional or tendered ballot is necessary.

On the other hand, a specific voter education campaign on this issue is not recommended. Raising attention to the possibility of tendered ballots may awaken more general doubts on the accuracy and efficiency of electoral administration. While affected voters will receive accurate information about a process that is foreseen by the law, tendered ballots could be perceived as an ordinary procedure and voters could try to challenge polling staff decisions, which would alter the ultimate goal of the mechanism. As an exception, targeted campaigns could be helpful in contexts where a significant volume of problems related to voters' eligibility are foreseen. Areas where new electoral boundaries apply leading to possible problems with the reallocation of voters could be a good example.

In terms of planning, tendered ballots need to follow very clear procedures as an actual ballot is to be handled. While large-scale operational planning would be meaningless, anticipating challenging situations and appropriate responses would be crucial for an issue that should be resolved as soon as possible. Different levels of the electoral administration could be involved. While some cases could be solved at a polling station level, others will need other bodies to get involved, which will require coordination.

Delays might be expected depending on the grounds on which the mechanism is admitted. While a solution for the very same election day is advisable, the electoral process could also consider other options. Tendered ballots could be stored and decisions taken during subsequent procedural phases. In these cases, attention should be paid to transparency issues, in particular the extent to which a voter will be informed on the actual fate of their ballot. Party agents and observers should also be allowed to track all tendered ballots, both in polling stations and at subsequent procedural steps.

Voter registration and identification

Both registration and authentication are key components in any process with tendered ballots as their acceptance is closely linked to both steps: voter registration gaps will cause uncertainty when a voter attends a polling station intending to cast a ballot, then the main challenge will be how to authenticate the voter and ascertain their eligibility to vote.

Reasons why a voter would not be allowed to cast a normal ballot may vary, but in general terms they will relate to either problems with the voter list, or doubts regarding multiple voting.

A tendered ballot may apply to a wide variety of cases. The most common include first-time voters, new citizens or voters who have regained their right to vote; voters whose data (e.g. name, place of residence) have been changed; voters transitioning from one gender to another, with the relevant data not duly updated; voters who had opted for SVAs and did not use them; or elderly people whose data entry has been deleted. While these examples relate to subjective reasons—they are caused by personal changes—objective factors could also lead to a number of unexpected tendered ballots. New constituency boundaries, as noted above, will require important changes to how voter lists are produced, which could result in errors, disenfranchising certain voters. All these examples are challenging to the voter list and sometimes the voter register too. They reveal mistakes, gaps or inconsistencies that have not been duly identified and fixed during audits or public inspection periods.

Tendered ballots can also relate to the voter's behaviour during the election day. This is the case when a person is not allowed to vote on the grounds that, according to the annotated voter list, they have already cast a ballot. Given that the disagreement is not easy to solve on the spot, certain countries admit provisional ballots.

A tendered ballot is an emergency solution during election days, but it reflects a deeper problem, since either the voter registration or the voter list might be wrong. Provisional ballots should lead to an update of both registers in order to have an accurate database. A certain incompatibility could exist: should provisional ballots be frequently used, both voters and the election administration would have fewer

incentives to update the relevant data during the non-election periods (MIT Election Data and Science Lab n.d.b).

Tendered ballots can be complex and a higher awareness is needed.

Election administration

As with any other SVA, tendered ballots create extra burdens for the election administration. New procedures detailing the appropriate criteria, deadlines and regulations will be necessary, but no new electoral units will be required. Tendered ballots can be complex and a higher awareness is needed.

Ballot integrity

A tendered ballot needs a specific management and storage system that may give rise to doubts and concerns regarding its transparency. Typically, tendered ballots are inserted in an outer envelope. Documentation supporting the identity of the voter and evidence of their claimed eligibility to vote is also included. The envelope is closed and may also be signed by the polling staff. Moreover, a list of tendered ballots, with the names of the relevant voters, may be kept by every polling station. The voter casting such a ballot may also be asked to sign the list. Once the procedure is completed, the ballot can be inserted in the ballot box with the conventional votes, but envelopes with different colours will be used to differentiate tendered ballots. Alternatively, polling staff could safely keep the envelopes with tendered ballots until their ultimate verification. While this option provides less transparency than the previous one during voting hours, specific storage will still be required at the end of the election day if the acceptance of the tendered ballots is not to be solved by the polling staff. A separate ballot box just for tendered ballots can also be used.

Voting and counting

Voting follows the same rules that apply for other ballots, but, as noted above, the process is different once the ballot is handed over to the polling staff. At that moment a specific process applies in order to both achieve a safe custody of the ballot and avoid its mixing with the other ones. It is important to note that tendered ballots should be kept separate: individual tracking is necessary as acceptance decisions will be taken later and they could vary from one tendered ballot to another.

Box 5.8. **Integrity measures for provisional voting and tendered ballots**

- Adequate training of polling staff in view of demanding procedures that would be implemented on an exceptional basis only.
- Voters using this SVA to be fully informed about the procedure.
- The legal framework to foresee in detail how tendered ballots are implemented, in particular cases where they apply, who is responsible for, procedures for handling ballots, deadlines and criteria to resolve eligibility.
- Specific guidelines and additional election material to ensure tendered ballots are safely and anonymously stored, together with ID credentials.
- Voter registration procedures to be reviewed in case of a significant number of tendered ballots.
- Eligibility to be resolved during voting hours if possible.
- Reconciliation of electoral material, either used or not, to be applied to tendered ballots as well.
- Attention to be paid to the protection of the secrecy when few tendered ballots are handled.
- Party agents and observers to be duly trained on the cases when tendered ballots are admitted and how the procedure applies.

During the counting phase, different solutions exist when it comes to deciding whether tendered ballots are acceptable. Depending on the grounds on which a ballot has been admitted as provisional, the decision could be taken either by the polling staff themselves or at a higher level. Consultations could take place during election day to check the accuracy of both the voter register and voter list. When feasible, it is recommended to take the decision during voting hours, to allow polling staff to treat the tendered ballot in the same way as the others. If not possible, the ballots will be kept aside and decisions on counting will be taken at a later stage. Reconciliation of electoral material (e.g. envelopes), either used or not used, is mandatory for tendered ballots too. Provisional ballots may be subject to higher rates of rejection due to clerical errors or missing information.

Some countries also admit tendered ballots but with no further action taken. These ballots are accepted as a way of diffusing tension and avoiding disputes at polling stations. A solution is presented to the voter, who will see their ballot being processed, but it will not be counted. It is therefore more of a psychological tool than an electoral measure.

In terms of secrecy, the same issues that exist in small polling stations also apply to tendered ballots, that is a small number of ballots is processed—sometimes even a single one. Polling stations may frequently have to handle one single tendered ballot, and operational criteria should take this scenario in account. Secrecy would therefore be at stake when the tendered ballots cannot be mixed with the others at a polling station level, and no specific safeguards are in place for later stages. Isolated tendered ballots need to be put together with other similar ballots coming from other polling stations, so that secrecy is preserved and tracking becomes impossible.

Observing

Party agents and observers have a key role when supervising instances of provisional ballots. They should know the applicable criteria and procedures. As noted above, polling staff will be required to take controversial decisions by admitting these ballots, but not accepting a ballot as provisional could be even more sensitive because the voter will lose any chance of voting. That is why third parties should keep an eye on the behaviour of polling staff and report if they witness inappropriate practices.

Country example: India

India has a standard legislation in terms of tendered ballots, but some years ago the topic attracted interest due to very tight results in one Indian province, where the recount of tendered ballots was challenged in the Supreme Court.

Typically, Indian citizens use voting machines for casting ballots, but paper ballots also exist for specific cases, such as the tendered ones. Should a voter want to cast a ballot on behalf of a person who allegedly has already voted, the presiding officer asks a set of questions about their identity and, if answers are deemed satisfactory, the voter would be able to cast a ballot but not with the voting machine. A paper-based tendered ballot would be used.

Provisional ballots are not counted, unless a specific petition to Court exists, which is what happened in 2008 due to close results in one particular race (i.e. Nathdwara Legislative Assembly constituency

in Rajasthan) (Dubbudu 2019). The Court established that three conditions should be met for counting tendered ballots:

1. The person who casts the initial vote as a voter on a particular serial number in the electoral roll was someone other than the genuine voter mentioned at that number.
2. It is the genuine voter who marks the tendered ballot paper.
3. The difference between the number of votes polled by the candidate declared elected and their nearest rival is so small that there is a possibility of that difference being wiped out and the result of the election being materially affected by the tendered votes.

In that particular case, results were decided by just one single vote. Tendered ballots were counted, the final outcome was modified and both leading candidates obtained the same number of votes. A draw decided the winner.

5.10. **PROXY VOTING**

Concept and variations

Proxy voting refers to the voting method whereby an eligible voter appoints another person—the proxy—to cast a vote on their behalf. The proxy is usually required to also be an eligible voter in the same constituency. The proxy, appointed by the voter, obtains their ballot, which is filled and cast under the same process as the voter would have used to cast it in person. The exercise of voting entitlement is effectively delegated to another person.

Box 5.9. **Note on terminology: Proxy voting**

In addition to the SVA described, the term 'proxy voting' in academic literature may occasionally refer to voting by elected representatives, in contrast to voting in direct democracy. The term has also been used to describe voting by members of parliaments on behalf of their absent peers. In business vocabulary, 'proxy voting' is usually discussed in the context of delegated voting rights by company shareholders. The term 'proxy voting' has also been used to denote illegal voting practices such as 'family voting'—when family members vote together in breach of secrecy. The use of 'proxy voting' in this Handbook does not refer to any such illegal practices.

Variations in the use of this voting method relate less to the voting procedures, which normally follow conventional voting, but more to the categories of voters entitled to make use of proxy voting, as well as the details of the authorization—when and how the delegation of the vote may be made, and what requirements must be met.

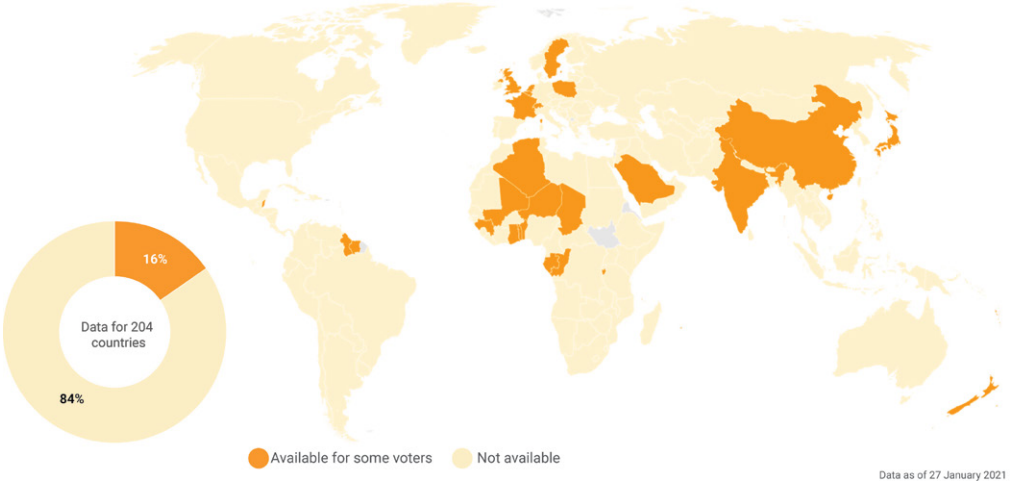
In Spain (Kingdom of Spain 2015: article 72), the procedures for postal voting require the voter to visit a post office in person to dispatch their application for a postal vote so that their identity can be verified. If the voter is too sick to do so, they may appoint a proxy for this purpose: the document of appointment must be notarized. However, the proxy does not subsequently cast the vote itself.

Global use

International IDEA's survey of 204 countries and territories found proxy voting to be in use for in-country voters in 32 countries (16 per cent)—see Figure 5.10. Proxy voting was more common in Africa (13 countries) and Europe (8 countries) than in other continents. In Africa, proxy voting is more often found in Francophone countries, as might be expected from the long-standing role of proxy voting in France. Only three countries in Asia allow proxy voting, although they have sizeable electorates (India, Japan and Saudi Arabia). Proxy voting is in wider use in OECD countries than in non-OECD countries (Figure 5.11). In some states its use is widespread while in others it is more exceptional.

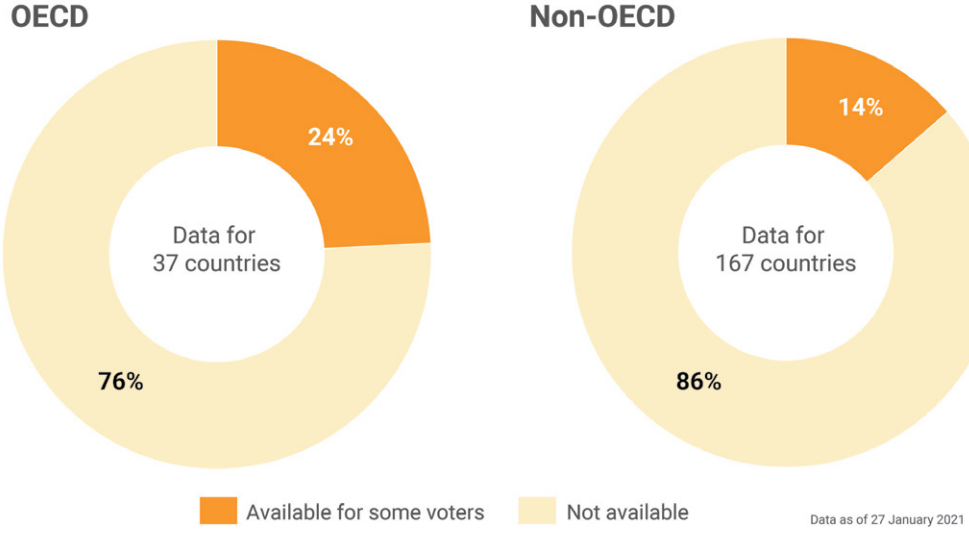
Proxy voting is often made available to voters with health issues or disabilities (e.g. in Belgium, Benin, Burundi, Chad, France, Ghana, Guinea, Guyana, Japan, Niger, Poland and Saudi Arabia) as well as to voters whose official duties may keep them away from the polls on election day, such as military and police service (e.g. in Algeria, Antigua and Barbuda, Belize, Benin, France, Ghana and India) and polling staff (e.g. in Belize, Chad, Guyana, Mali and Suriname). This voting method may also be used to facilitate franchise for voters in hospitals (e.g. in Algeria, Benin, Chad, New Zealand and Togo) and places of detention (e.g. in Belgium, France, Gabon, Mali, Monaco, Pitcairn Islands and Sweden). Proxy voting may be available to anyone who will be away from their constituency on election day (e.g. Gabon and Ghana), temporarily abroad (e.g. the UK) or, even

Figure 5.10. **Proxy voting by country**



Source: Developed by the authors.

Figure 5.11. **Proxy voting in OECD vs. non-OECD countries**



Note: OECD = Organisation for Economic Co-operation and Development.
Source: Developed by the authors.

more broadly, unable to vote personally for any reason (e.g. Comoros, Gabon and the Netherlands).

Policy issues

As a voting method, proxy voting poses few challenges and little or no additional cost for election administration. It decreases the cost of participation in elections for some voters and, like other SVAs, gives an opportunity to participate in elections to those who may otherwise stay away from the polls. It helps to increase overall voter turnout and is an effective way to ensure that persons with disabilities or who are hospitalized or homebound have an opportunity to vote (OSCE/ODIHR 2020a: 20).

The weaknesses of proxy voting can be grouped into two sets. In the first are integrity risks, which arise from the fact that proxy voting involves authorization carried out in an uncontrolled environment, as discussed below. The second set relates to the notion of delegation itself. Critics of proxy voting are troubled by the idea that a person's voice in public affairs and their expression of civic responsibility can be delegated. Proponents of proxy voting respond that, by abstaining from voting, some voters already entrust decision making in public affairs to those who do vote, and that delegated voting may provide a better solution to voter absenteeism than mandatory voting (Tutt 2016). Further, proponents argue that an autonomous exercise of the voting entitlement includes its delegation. Proposals have also been made to facilitate such delegation by reliable IT solutions (Kulyk et al. 2017).

Reservations about proxy voting thus remain rooted in policy rather than in law, since to date proxy voting has not been questioned by international human rights bodies.

International election observers have expressed reservations about proxy voting as potentially challenging the principles of equal suffrage and secret ballot (OSCE/ODIHR 2017), as described in the case study of the Netherlands which follows. In contrast, France took the decision in 1975 to extend the scope of proxy voting and to abolish postal voting, which was perceived as the more likely source of fraud: the availability of proxy voting in France has been further widened since (Crook 2021: 220–21). Reservations about proxy voting thus remain rooted in policy rather than in law, since to date proxy voting has not been questioned by international human rights bodies. There is also a counter-argument that proxy voting does not alter voting entitlements or the weight of each vote (which are the

principal concerns of equal suffrage), while the challenge it poses to ballot secrecy is relatively minimal.

Eligibility for proxy voting is a key consideration. It can be made available with little or no justification being required (see the Netherlands case study) or based on self-declaration of particular circumstances preventing a voter from voting in person, such as professional obligations or health reasons, as in France. Alternatively, the voter may be required to provide proof of eligibility with their application for proxy voting, such as a disability certificate in Poland (OSCE/ODIHR 2010). The eligibility for proxy voting needs to be sufficiently clearly defined in the law, to prevent arbitrary decisions (Electoral Code of France n.d.: article L71). Where election officers or other officials are called upon to exercise their discretion—for instance, in deciding whether the reasons for proxy voting put forward by the voter meet the legal criteria—this discretion should be provided in written instructions.

The benefits of providing proxy voting to a particular category of voters need to be considered and compared with other SVAs. For persons with disabilities, the goal of international human rights treaties is to facilitate individual autonomy and independence inasmuch as possible (see the CRPD (United Nations General Assembly 2006)). Therefore, proxy voting may *supplement*, but not supplant, efforts to provide for independent voting by persons with disabilities. Voters who may experience difficulties in identifying someone who could act as a proxy (e.g. voters in prisons and other places of detention) should have other possibilities to cast their vote.

The benefits of providing proxy voting to a particular category of voters need to be considered and compared with other SVAs.

Voter registration and identification

Proxy voting does not require additional arrangements for voter registers and identification of voters in polling stations. Procedures vary from country to country. It usually requires a prior application. The fact that the voter authorized someone to vote on their behalf should be reflected in the voter list before election day. Some states limit the number of persons on whose behalf a proxy may vote and may require documentation indicating the absent voter's identity and willingness to vote by proxy. If there is no centralized electronic marking of voters who voted on election day, it is advisable to permit to serve as proxies only voters registered in the same precinct or

polling station as the voter themself. When the proxy is identified and receives the ballots, the voter list should be marked for both the proxy and the voter who gave the authorization.

Election administration

On election day, the proxy vote is cast in the same way as a regular vote, following the conventional voting method. The difference is that the authorization to vote by proxy needs to be requested and approved. The application to authorize a proxy should be received by the authority sufficiently in advance of voting, to allow time for decision making and communicating this with the requesting voter. The decision-making authority can be a local official (e.g. mayor) or the local EMB, provided it is formed and functional during the timeframe in question.

The application process should be made accessible to voters taking into account the specific needs of the categories of voters entitled to request proxy voting—for example, disabled or homebound voters and voters abroad cannot necessarily be expected to submit the request in person. At the same time, additional safeguards may be needed for particularly vulnerable categories of eligible voters, such as voters with mental disabilities. Information about the application procedure should be communicated to eligible voters through information channels accessible to them.

The EMB should approve the form and content of the application for proxy voting, in line with the legal requirements, and provide the necessary guidance for decision making.

In the interests of uniform and consistent decision making, the EMB should approve the form and content of the application for proxy voting, in line with the legal requirements, and provide the necessary guidance for decision making. If specific circumstances need to be evidenced in the application, it is advisable to specify which proof of these circumstances will be acceptable. The law may provide a possibility for the voter to amend or supplement the request if it does not meet the regulatory requirements, within specified deadlines. Decision on the application should be made within a specified time and communicated to the principal and the designated proxy.

The regulator should decide whether withdrawal of an issued proxy should be possible, and, if so, specify the deadline and the procedure for such withdrawal. This procedure should include timely communication of the withdrawal to the respective EMB and

marking of the voter list accordingly. A withdrawal may be difficult or impossible to administer, which is why it is not allowed, for example, in the Netherlands.

Ballot integrity

Since proxy selection and delegation take place in an uncontrolled environment, without the presence of public or election officials, the risk of voter coercion or inducement cannot be ruled out. The legal framework should include appropriate safeguards to mitigate such risks. These could include a declaration by the voter, statement by a witness, additional verification by a public official (for example, by phone) or similar measures. The law should forbid soliciting proxy voting or offering any benefit in exchange for the proxy. The number of proxy votes that may be held by one person should be limited and small. For example, in Poland, a proxy as a rule may act for only one person, or a maximum of two people if one of them is a close relative.

Box 5.10. **Integrity measures for proxy voting**

- Voter declaration.
- Witness statement.
- Copy of voter's identification document.
- Additional verification of voter's intent by an official.
- Registration of approved proxy requests/proxies issued.
- Limited and small number of persons whom one proxy may represent.
- Observer access.

Voting and counting

Proxy voting does not entail any special arrangements for voting, except for verification of the validity of the authorization and identity of the proxy. As noted earlier, both the proxy and the principal should be marked as having voted in the voter list after their ballots are issued, to ensure reconciliation of control ratios during counting.

Observation

Proxy voting does not pose specific challenges for observation, as voting itself takes place in the same manner as conventional voting. Observers should be aware of the procedures that need to

be followed by polling staff, including verifying the proxy, and note whether these procedures are consistently followed.

Country example: the Netherlands

Background

Proxy voting has a long history in the Netherlands. The initial introduction of proxy voting is linked to two reforms: the institution of universal male suffrage and of mandatory participation in elections in 1917–1918 (Kamphuis 2015: 5–6). First introduced in 1928, proxy voting was allowed only for those who could present sufficient evidence that they would be absent on election day due to work demands, by application made six months before the election. The proxy principal and the proxy holder had to be enrolled in the same polling place and personally register in the municipality. The initially restrictive rules on proxy voting were relaxed and tightened again several times during the last century, often in response to concerns about possible abuse of procedures (Kamphuis 2015: 6–7).

Legal framework

The main provisions on proxy voting are found in the 1989 Elections Act (Kieswet), with some details elaborated in the 1989 Elections Decree (Kiesbesluit), while the relevant forms and templates are approved by regulation of the Ministry of Interior and Kingdom Relations.

The law provides two ways in which a voter may authorize another person to vote on their behalf. They are often called 'written' and 'unwritten' proxy, although both authorizations are made in writing. The main difference is in the involvement of a public official. The 'written' proxy is requested by application submitted by the voter to the mayor of the municipality of the voter's residence. (Voters abroad send the application to the Mayor of The Hague.) This application must be accompanied by a statement by the designated proxy that they are willing to act in that capacity. The designated proxy must be a registered voter for the same election. This means that for parliamentary elections the proxy does not need to reside in the same municipality as the voter. If the request is granted, a power of attorney will be issued to the designated proxy. If the request is denied, the

voter will receive a reasoned decision and the designated proxy will be notified (Kingdom of the Netherlands 1989: Chapter L).

The 'unwritten' proxy procedure is simple, owing to the system of voting cards used in Dutch elections. Ahead of the elections, the municipality sends to each registered voter a card called 'voting pass' (*stempas*). This individual card with a serial number and security features enables the voter to cast a ballot at any polling station within the municipality. The card is required for voting and, if lost, a replacement may be requested. The 'unwritten' proxy is effected by signing over the voting pass to another voter. At the polling station, the proxy needs to present the signed voting pass and a copy of the identification document of the represented person. The proxy can only cast the vote of the represented person together with her or his own vote (Kingdom of the Netherlands 1989: Chapter L).

An application for a 'written' proxy must be received by the municipal official no later than five days before the election. (For voters abroad, the deadline is six weeks before the election.) If a voting pass was already issued to the voter, the application for a 'written' proxy will be rejected. One person may act as a proxy for no more than two voters (Kingdom of the Netherlands 1989: Chapter L). During the parliamentary elections in March 2021 this number was increased to three by a special temporary act of parliament, which introduced changes to electoral law related to the Covid-19 pandemic. This temporary act also expanded the use of postal voting and introduced early voting (OSCE/ODIHR 2021b). It expired in July 2021.

Use of proxy voting

According to researchers, the number of proxy votes in Dutch elections usually varies between 8 and 12 per cent (Kamphuis 2015, also quoting Schmeets 2010). In the 2017 parliamentary elections, some 9.1 per cent of votes cast were proxy votes; in the 2021 parliamentary elections, the figure was 8.8 per cent (OSCE/ODIHR 2021b). Although statistics are not available, it is generally believed that the vast majority of proxy votes are 'unwritten' proxies.

The Dutch Electoral Council commissioned a study in 2014 to explore the factors that account for a higher incidence of proxy voting in some municipalities and some elections. Research carried out by the

University of Twente concluded that the following factors positively correlated with a higher use of proxy voting: turnout in elections; full-time employment; higher education; multiple-adult household; non-Western immigrant communities; and traditional Christian communities (Van Der Kolk 2014). International observers from the OSCE Office for Democratic Institutions and Human Rights (ODIHR) pointed to reports indicating that use of proxy voting is higher among women, with men more likely to serve as proxies (OSCE/ODIHR 2017: 16).

Reform discussions and prospects

Historically, reforms that relaxed rules on proxy voting in the Netherlands were followed by changes introducing restrictions, due to integrity concerns. Although the scale of misuse was always difficult to assess, it is thought that over time the introduction of criminal penalties for abuse of proxy voting and the limitation of the number of proxy votes which may held by one person, as well as voter identification requirements (for the proxy and the represented voter) considerably decreased risks of misuse (Kamphuis 2015).

International election observers from the OSCE/ODIHR have been critical of proxy voting (see e.g. OSCE/ODIHR 2017: 16–17). They have expressed concerns that proxy voting is undermining principles of equal suffrage and secret ballot, and that it may facilitate 'family voting'. With respect to equal suffrage, it may be noted that, although proxies cast more than one vote, the principles of equal voting rights and equal voting power, which are the constituent elements of equal suffrage, are not altered by proxy voting. The Council of Europe's Venice Commission regards proxy voting permissible but notes that it should be subject to 'very strict rules', in order to prevent fraud (see Venice Commission 2002: 8, section 3.2.v).

The threat to secrecy of the ballot posed by proxy voting in the Netherlands is regarded as rather minimal, since the voting intention is only disclosed by the voter to one trusted person. It has been argued that proxy voting is inherently at odds with vote secrecy since voters must disclose their voting intention to the proxy. However, it can be counter-argued that voters make use of proxy voting and make such disclosure voluntarily, so a concern would arise only if a voter has no other choice but to use proxy voting.

The concern about 'family voting' relates particularly to traditionally patriarchal ethnic and religious communities, where eligible female voters may potentially transfer their votes to male heads of household. Whether coercion is necessarily an element of such transfer is difficult to establish, nor can it be assumed that such female voters are deprived of an opportunity to express their real political choice.

In general, the concerns outlined above have not appeared to dent public support for proxy voting in the Netherlands, which remains high (Kamphuis 2015; OSCE/ODIHR 2017). Although the reform agenda developed after the 2017 parliamentary elections by the Association of the Netherlands Municipalities and the Dutch Association for Civil Services recommended the abolition of proxy voting, these proposals have not yet been taken up by the government. It may not be excluded that proxy voting could in the future be supplanted by other alternative methods such as postal voting, as was encouraged by international election observers (OSCE/ODIHR 2021b). However, for the time being the benefits of proxy voting appear to outweigh its drawbacks in the minds of the government and the public.

5.11. **SPECIAL POLLING STATIONS IN DOMESTIC LOCATIONS**

Concept

A domestic 'special polling station' refers to any voting site that is established within the borders of a country developed with a specific group of voters in mind. Special polling stations are thus distinguished from conventional polling stations, which serve all eligible voters within an electoral district. Special polling stations may be available to voters on election day (or days) only. Alternatively, they may operate on one or more dates prior to election day, or on dates before and including election day.

Special polling stations may be established near or within hospital facilities or prisons or other detention centres for the use of voters residing there who are otherwise unable to present themselves at their home residence polling station on election day—or for other

groups of voters who are unable to travel to their conventional voting site and cast a ballot on election day. IDPs have in some elections voted at special polling stations. Special polling stations may, in some countries, be established for use by military, election and other personnel who are unable to vote conventionally because of official duty. Special polling stations may be mobile, for example for designated remote areas—they are thus also considered as mobile voting, combining SVAs.

Some states may establish special polling stations to serve voters who will be outside their home electoral district on election day. In countries such as Mexico (OAS 2018: 8) and Slovenia (OSCE/ODIHR 2018b: 16), for example, electoral authorities set up special polling stations for this purpose.

With the onset of the Covid-19 pandemic in 2020, some countries established special polling stations for the use of voters who tested positive for the virus or who showed symptoms of the virus (e.g. South Korea (Spinelli and Butcher 2022)). These stations were operated under increased health and sanitary measures designed to minimize the risk of spread of the disease. Special arrangements combining SVAs may be needed where some voters also have mobility issues, for instance, so that special polling station officials are responsible also for a mobile ballot box and are empowered to provide assistance to voters unable to complete the ballot autonomously.

In countries without other SVAs special polling stations can provide access to the vote for those who might otherwise be unable to vote.

Policy issues

In countries without other SVAs such as postal, proxy, or online and Internet voting, special polling stations can provide access to the vote for those who might otherwise be unable to vote. Even if other SVAs exist, some populations served by polling stations, such as prisoners, might not be able to access them easily.

As with administering conventional polling stations, there are costs for an EMB and other state actors in administering special polling stations, including for the use of the facilities, for election staff and security personnel, and for supplies. In some instances, election personnel may require additional training in administering special polling stations, including in guaranteeing secrecy of the vote and

in implementing procedures to ensure that voters on special polling station voter registries are not able to vote twice (e.g. at two different special polling stations, or at a special polling station and a voter's home polling station).

When polling stations are established at sites such as a prison or military base, the risk of coercion or intimidation of voters can be a concern. Indeed, some countries prohibit or restrict this: Armenia prohibits the location of polling stations in military units, military education institutions and military healthcare institutions (although allowing it in prisons) (Venice Commission 2017: articles 17(3) and 17(4)), and Angola prohibits the location of polling stations in both police and military units. Where polling does take place within such facilities, EMB officials and electoral procedures should ensure that voters at these sites are able to vote freely and in secrecy. Special polling stations administered by persons other than trained election administrators (e.g. prison or hospital administrators, or military commanders) may face a greater risk of voter coercion or improper influencing (Republic of Angola 2021: article 87(4)).

The Venice Commission's Code of Good Practice recommends that military voters who are unable to return to their home electoral districts on election day be registered instead at polling stations near their place of deployment (Venice Commission 2002: I.3.2.xi). OSCE/ODIHR has recommended that special polling stations for the military not be used if voting by military personnel in their home electoral districts is geographically possible (OSCE/ODIHR 2013: 60).

In potentially coercive environments, other methods of voting such as proxy, postal or electronic voting may be preferable options, although voters using these SVAs may also be susceptible to pressure by others. In Myanmar, the parliament voted in 2020 that special polling stations for military personnel would be placed outside barracks, thereby addressing a concern that existed in previous elections when 'independent monitoring of polling stations inside military compounds and the areas where military personnel live remained limited for security reasons' (Aung 2020).

Voter education on the availability of special polling stations and, if applicable, how to register to use them supports their effective use.

Voter education on the availability of special polling stations and, if applicable, how to register to use them supports their effective use.

Education and outreach programmes on the rights of special polling station voters to a secret ballot free from intimidation, and on the responsibilities of others (such as prison administrators or military commanders) to ensure that voters may cast a secret ballot in an environment free from coercion and intimidation can promote a freer voting and counting process.

Voter registration and identification

Voting at domestic special polling stations may require that registered voters take additional actions to demonstrate that they are eligible to vote there. For example, in addition to identification documents, voters may need to provide evidence of health problems or a statement that they will be in transit on election day and unable to vote in their home district. In some cases where a voter is away from their home district, they may be asked to identify the special polling station where they wish to vote. In other cases, a registry of eligible voters may be generated from the roster of an institution being served by the polling station, such as a hospital, prison or military installation. Regulating special polling stations requires clarity of identification procedures for voters who are eligible to use these stations.

Election administration

Operational challenges may exist and they could undermine the credibility of this SVA. Expectations, for instance, could be frustrated in instances where the number of voters who may use certain special polling stations varies. EMBs must address logistical issues such as ensuring that the right types of ballots, and an adequate number of ballots, are available for use by all potential voters. Lawmakers and regulators may wish to ensure that procedures for requesting use of special polling stations enable administrators to predict in advance the maximum number of voters who may be eligible to vote at a particular station and, if feasible, to open additional special polling stations in cases where there may be an excessive number of voters. During elections in Mexico in 2018, for example, there were reports of several special polling stations established for voters in transit running out of their allotment of 750 ballots early on election day (OAS 2018).

Ballot integrity

Ensuring voter secrecy and an environment free of the possibility of voter coercion and intimidation can be especially challenging in certain types of special polling stations. Lawmakers should regulate such procedures accordingly. Election procedures for setting up a special polling station should therefore require an environment that enables every voter to cast their vote in secret and free from potential coercion. An electoral legal framework should include clear penalties for anyone attempting to coerce or improperly influence voters using special polling stations. The Venice Commission has recommended that, in the case of military units, special commissions be formed to supervise the pre-electoral period to ensure that commanders are not ordering or otherwise imposing certain political choices on subordinates (Venice Commission 2002: 3.2.2.2, para. 41).

Election procedures for setting up a special polling station should require an environment that enables every voter to cast their vote in secret and free from potential coercion.

In the case of special polling stations that conduct voting operations prior to election day, and that do not count and announce results until the end of the final day of operations, procedural safeguards regarding the secure storage of ballots and the prevention of unauthorized release of vote totals will be important. As with all other aspects of the operations of the special polling station, the transparency of the closing and opening procedures for each day and of the securing of ballots will help engender confidence.

Voting and counting

Election officials should administer both the voting and counting processes in special polling stations whenever possible. Administration of these processes by others, such as military commanders (in barracks) or prison administrators (in prisons), may give rise to concerns about bias or the risk of voter intimidation. In either case, transparency of the processes, allowing for observation by both partisan and non-partisan representatives, can help ensure that processes are conducted fairly.

In general terms, counting is conducted by the staff working at the special polling station and in place. Unlike other SVAs, such as mobile ballot boxes, special polling stations act as actual polling stations and thus conduct both voting and counting.

Box 5.11. **Integrity measures for special polling stations in domestic locations**

- Double voting to be prevented with appropriate measures regarding voter registration and authentication. Eligibility to be appropriately ascertained as well.
- Additional training of polling staff to be considered in order to customize skills to the needs of special polling stations, in particular when it comes to the protection of secrecy and avoiding impersonation or double voting.
- Election integrity and the risk of coercion or intimidation of voters, particularly in certain settings such as prisons, care institutions or military compounds, to be addressed through specific procedural guidelines and the supervision of polling staff during voting and counting.
- Specific voter education activities to raise awareness on the advantages and concerns linked to special polling stations.
- Special polling stations to be used only as an exceptional measure and when no other voting methods are available.
- The special polling station's capacity should be estimated in advance and relevant logistical measures adopted to ensure a full coverage of the number of voters intending to use it.
- Storage and a safe chain of custody to be granted when special polling stations are operating before the election day.
- Transparency of the processes, allowing for observation by both partisan and non-partisan representatives, helps ensure that processes are conducted fairly.

EMBs and other state actors should ensure in law and practice that neutral observers and partisan representatives have reasonable access to the electoral process at these special polling stations as they would have at other polling stations.

Observing

Observation of voting in some types of domestic special polling stations can be difficult. In special polling stations held on sites with heightened security measures, such as military bases and prisons, institution officials may seek to limit or prohibit observers from witnessing the voting and counting process. EMBs and other state actors should ensure in law and practice that neutral observers and partisan representatives have reasonable access to the electoral process at these special polling stations as they would have at other polling stations.

Country example: Ukraine

With the passage of a new Election Code in 2020 (Ukraine 2020: article 30), Ukraine has developed a definition of permanent and temporary special polling stations applicable to all elections. The law foresees permanent ones in places where such arrangements are to be expected, such as care facilities, ships, detention centres, or other places where voters with restricted mobility live. Their permanent nature indicates that these institutions will be considered

special polling stations, regardless of whether anybody registers to vote there for every election, and thus voters' needs would deserve a special arrangement. The law also foresees temporary special polling stations to be established on demand, within certain specific deadlines and taking account of new emerging needs not covered by ordinary or permanent polling stations.

In 2019, temporary polling stations had been established for use by the military in Donetsk and Luhansk, two areas of Ukraine that are sites of conflict between Ukraine and Russia, for 2019 presidential elections (Kliuzhev et al. 2020). Temporary special polling stations for the military were not established during 2019 parliamentary elections, however, because the law governing those elections did not provide for this option (OSCE/ODIHR 2019: 10). Soldiers instead voted if they could at ordinary polling stations.

A prominent domestic electoral observation organization concluded that the vote at these temporary special polling stations took place in accordance with democratic norms, citing in part the fact that during both rounds of the presidential election soldiers voted for candidates in numbers that reflected the national election results overall (Kliuzhev et al. 2020).

For all special polling stations, observers recommended among other improvements that information about candidates and parties, and about how to vote, be provided to potential special polling station voters (Kliuzhev et al. 2020). In polling stations in some pretrial detention and penal institutions, observers expressed concerns about the lack of information present for voters on candidates and voting procedures. This was in addition to concerns in some sites about the secrecy of the vote and a general concern about the possibility of coercion that observers would be unable to witness because of the closed nature of these institutions (Kliuzhev et al. 2020).

5.12. VOTING OUTSIDE A VOTER'S HOME PRECINCT

These arrangements are designed to facilitate voting for voters who know that they will be away from their home precinct on election day.

Concept

In this Handbook, 'voting outside the voter's home precinct' refers to arrangements which enable the voter to cast their ballot in a polling

station within the country different from the polling station to which this voter is normally assigned according to their registered address. These arrangements are designed to facilitate voting for voters who know that they will be away from their home precinct on election day. This SVA can be distinguished from a change of one's permanent address on the voter register, as the latter changes the voter's 'home' electoral precinct. This SVA may overlap with and also include other SVAs discussed in this Handbook, as the arrangements may involve, for example, designating special polling stations for such voters, or form part of early voting.

There is no global data on the availability of this SVA, but it appears to be relatively common. In a survey of European Union countries, this SVA was available in 17 member states (Lupiáñez-Villanueva and Devaux 2018). A distinction can be made between arrangements that reassign a voter to another designated polling station and those that remove the voter from the list at the home polling station and allow them to cast the ballot in any other polling station. The latter arrangement may involve issuing a special permission or certificate to such 'remote' voter.

This SVA may allow voters to vote in another polling station within the same constituency or in a different constituency—with such votes then being transferred to the voter's home constituency. Voting in a different constituency involves more complex operations, especially if the electoral system means that there is a different choice of parties and candidates. There may be potential pitfalls, especially if the electoral system creates incentives for the electoral contestants to attract 'remote' voters.

Policy issues

The two main parameters to be considered for introducing and implementing this SVA are the electoral system and the voter registration system.

For voting organized in a single nationwide constituency, such as a presidential election or a national referendum, the ballot (and the slate of candidates) is the same throughout the country, which facilitates a change in the assigned polling station. In this scenario, the operational issues revolve mainly around voter registration and

identification. For elections that involve a different ballot in different constituencies, an additional layer of complexity involves the distribution and collection of ballots that need to be made available to 'remote' voters who vote outside their home constituency. The costs of such an operation are higher, and its benefits should be compared to other SVAs.

Making this SVA available to voters will also involve regulating the grounds on which their request can be granted, and the evidence that needs to be presented in support of the request. Factors to be considered by the responsible authorities when making a decision should be sufficiently detailed in the legal framework to avoid arbitrary or biased application.

Voter registration and identification

The functionality of this SVA largely hinges on the voter registration system. Availability of an electronic voter register greatly facilitates the possibility of changing the assigned polling station and allows for information to travel quickly. Where voter registration is centralized, reassignment of a voter to a different polling station anywhere in the country may be accomplished centrally. If voter registers are maintained on a regional level, the change should be communicated to the relevant authorities in the different regions, which requires more time and creates an additional vulnerability for electoral integrity.

In some countries polling stations are equipped to electronically access the list of all voters who voted nationwide. In this case there is no need for a prior application to vote outside one's home polling station. A voter may simply go to any polling station in the constituency, be identified, and be allowed to vote after verification that they have not voted elsewhere. Such a system is operated in Lithuania, for instance. As this option is available at the level of the municipality (implemented with individual secure voter cards), voters are able to vote at any polling station within their municipality, as in the Netherlands.

Where polling stations are not equipped to immediately check whether the voter has voted elsewhere, a prior application by the voter is necessary, allowing sufficient time for the decision to be

made and communicated to the voter, and reflected in the voter list. Voters may be assigned to another specific polling station or they may be issued special certificates, which allow them to be added to the voter list at the polling station of their choice, where they will cast their vote. Voters who have been issued such certificates must be taken off the voter list at their home polling station, and the certificates must be retained at the polling station where the vote is cast, to prevent the same voter from voting more than once.

Election administration

As noted earlier, the electoral system where voters cast a ballot for the same slate of candidates in a single constituency makes voting outside one's home district rather straightforward, as the voter is issued the same ballot in a different polling station. The SVA may be administered by the same polling staff who administer the conventional voting, with additional training on the few additional procedures.

If voters are given the opportunity to cast their ballot in another electoral constituency, where the ballot is different, this requires making the voter's home constituency ballot available in another constituency and transferring the vote back to the voter's home constituency. Transportation of ballots to the home constituency adds cost and time to the processing of final results.

One option for casting the ballot in another electoral constituency is through a 'double envelope system', where the voter receives a ballot and a 'double envelope package'. This system may be similar or equal to postal voting before election day. The ballot can be cast in a polling station in any part of the country on election day. The polling station usually sends the voted ballot package back to the home district for processing and counting. With the double envelope system, voting is possible in selected regular polling stations equipped for processing ballot packages that were applied for and issued to the voter before election day (e.g. in Austria). Alternatively, voting is possible in all or selected early voting polling stations. Prior application is not needed, and ballots for all constituencies and double envelopes are in stock, for example, in Estonia, Denmark, Iceland and Sweden.

In Hungary, this opportunity is offered in special polling stations, where voters need to register through prior application. These special polling stations provide ballots from different constituencies, which voters cast in envelopes with the constituency number. After voting, ballots are sorted and transported to the respective constituencies for counting. Such a system requires additional polling staff for the special polling stations, where the procedures differ slightly from ordinary polling stations. There are few special polling stations, so they may serve a larger number of voters and thus require larger premises and a larger number of staff. In Mexico, where no prior application was required, special polling stations ran out of ballot papers, resulting in disenfranchisement of eligible voters (OAS 2018).

Ballot integrity

Voting outside the voter's home precinct involves vulnerabilities which may be exploited for electoral wrongdoing, particularly in environments where electoral integrity is lacking. For example, in Russia 'absentee voting certificates' issued for voting in any polling station (within the same electoral constituency) became synonymous with electoral manipulations. Over successive elections observers have reported various irregularities that allowed the holders of voting certificates to vote more than once, such as political parties making copies of the certificates or election commissions not retaining the certificates (RBC 2012). There have also been reports of voters being pressured to apply for absentee voting certificates in specific electoral districts, as the seat allocation formula took into account such turnout (Golos 2016). Criticism eventually led to the scaling down of the use of absentee voting certificates (BBC News 2017) and their replacement with a 'mobile voter' arrangement, which allows voters to electronically request to be included in the list of another polling station within the same constituency.

This SVA may be particularly prone to manipulations where the political actors stand to benefit electorally from the 'migration' of voters. For example, in Kyrgyzstan under the 2011 electoral law, voters who were temporarily away from home on election day were allowed to register an 'electoral address' and be added to the voter list at that address. Parliamentary elections were held in a nationwide constituency, but to qualify for parliamentary mandates, party lists had to obtain a minimum threshold of votes in every region of the

This SVA may be particularly prone to manipulations where the political actors stand to benefit electorally from the 'migration' of voters.

country. Accusations that political parties and their candidates bribed voters, including to register and vote in particular localities, was one of the contributing factors that led to the rejection of results and unrest after the 2020 parliamentary elections (OSCE/ODIHR 2020b). The 'electoral address' arrangement was subsequently abolished.

Box 5.12. **Integrity measures for voting outside a voter's home precinct**

- If certificates are used, registration and verification of authenticity of certificates; retention of certificates where voter cast the ballot.
- Double envelope system.
- Secured storage and transportation, where applicable.
- Observer access.

Voting and counting

Under this SVA, voting takes place in the controlled environment of a polling station, either on election day or as part of an early voting arrangement. The voting procedure is essentially the same as with the conventional voting method, but modifications are needed to verify the voter's eligibility, such as checking the validity of the certificate allowing the voter to vote in a different polling station.

Votes cast by 'remote' voters within the same constituency are counted in the same manner as other votes in the polling station where they voted. If votes need to be transferred to another constituency for counting, a large enough number of votes should be mixed and counted together, so that the ballot cannot be traced to a particular voter and the secrecy of the ballot is preserved. Polling procedures need to provide for the chain of custody of the ballots in transit and preserve their security.

The voting itself can be fully observed in the polling station, and observers should be given the opportunity to examine the relevant documents.

Observing

Under this SVA, the voting itself can be fully observed in the polling station, and observers should be given the opportunity to examine the relevant documents, such as the voting certificate and the records made on the voter list. The actions preceding voting, such as the handling of the voter's request to change the polling station, reassignment to a different polling station, or the issuance of a voting

certificate, are not necessarily observable directly. Observers may request the relevant information from the EMBs and compare it with their observations of the voting process.

Country example: Czechia

Any voter may apply for an absentee voting certificate, which enables them to vote at any polling station in the country or abroad (OSCE/ODIHR 2021a). Applications are made to the municipal authorities at the voter's permanent residence. Applications can be made in writing, in which case the voter's signature needs to be officially certified, or online, using electronic signature. Remote applications should be made no later than a week before election day, but voters may apply and receive the certificate in person up to two days before the election.

The certificate contains security features such as serial numbers and watermarks. If the certificate is not delivered, or lost, no replacement is issued. Voters who receive the certificates are taken off the voter list in their home municipality and will be added to the list in the polling station where they turn up on election day (OSCE/ODIHR 2021a).

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Chapter 6

SVA POLICIES

In countries where EMBs and other state entities have a reputation for efficiency and trustworthiness, the introduction of a new SVA may be non-controversial and quickly accepted.

The choice of a particular SVA may reflect many factors, such as popular demand for more convenient voting arrangements, and trust in electoral administrators to administer an SVA fairly and efficiently. In countries where EMBs and other state entities have a reputation for efficiency and trustworthiness, the introduction of a new SVA, or reform of an existing SVA, may be non-controversial and quickly accepted. Conversely, countries should not consider particular SVAs if most electoral stakeholders lack trust in the capacity of EMBs or other state entities to implement an SVA with efficiency and integrity. The existence of common social trust and mutual confidence also matters.

Other characteristics unique to a certain state may support the adoption of certain forms of SVAs, for example, the strength of a state's infrastructure. A postal voting system requires a reliable postal service, and online voting calls for an adequate electrical grid and secure Internet capacity. Demographic factors (such as the size of a state's international diaspora) may also contribute to a state's decision to implement certain SVAs. A history of violent conflict or other emergency circumstances may cause a state to consider SVAs to enable affected communities to vote.

The choices of SVAs may also depend on how much capacity the EMB has. Among other factors, EMBs should assess the budgetary impact and needs for any proposed SVA before moving forward with implementation (OSCE/ODIHR 2020). For example, the electoral administrators may not be able to summon the resources to conduct in-person voting at every embassy, every prison or every hospital, the

capacity to reach every remote and rural community in a jurisdiction, or the resources to institute online or postal voting measures.

This chapter is devoted to policies accompanying the use of SVAs. It begins with building and maintaining trust in SVAs—which is one of the central issues. Policies on risk assessments are touched upon briefly, and the correlation between SVAs and voter turnout is also considered, taking into account that decision making on SVAs is often linked to their potential benefits for boosting participation in elections. Finally, attention is also paid to the costs of SVAs.

6.1. TRUST BUILDING

Why voters may have concerns about the integrity of SVAs

Trust in the electoral process and in the validity of electoral results is an essential element of a functioning electoral democracy. Confidence that voting matters promotes greater turnout and ensures that parties and candidates remain accountable to the people who have elected them.

SVAs, if designed and implemented well, can promote greater confidence in the process. They can enhance overall turnout and increase the diversity of the electorate. Since the emergence of the Covid-19 pandemic in 2020 it could be said that the expanded use of some SVAs helped to maintain trust in electoral processes.

SVAs, if designed and implemented well, can promote greater confidence in the electoral process.

However, the unusual nature of SVAs—and, in some instances, the poor design and implementation of some of them—may provoke a lack of confidence in the integrity or efficacy of SVAs. Once an SVA regulation has been drafted, approved and socially accepted, it can still be a challenge to maintain the legitimacy of the provision when implemented or further reformed. SVAs that are perceived—fairly or not—as being favourable to one party or faction, or that may be perceived as operating for the benefit of certain groups or interests only, may erode trust in elections overall, regardless of the process under which the relevant law was enacted. Partisan actors may even in some circumstances choose to challenge the legitimacy of an SVA even if they approved of it—or acquiesced to it—at an earlier stage.

In any politically polarized society, voters may be concerned about the possible manipulation of SVAs by partisans to secure electoral outcomes.

In emerging democracies, voters and other stakeholders may have doubts about an EMB's ability to implement an SVA fairly and efficiently. In any politically polarized society, voters may be concerned about the possible manipulation of SVAs by partisans to secure electoral outcomes. A sudden, massive increase in volume of SVA usage, as was the case in many countries during the Covid-19 pandemic, may affect the perceived trustworthiness of that SVA and elections as a whole. While many voters may be willing to use newly offered SVAs, other voters may just prefer traditional, conventional voting because of the sense of certainty it may provide. For parties and candidates, a significant change to the electoral process, such as the introduction or expansion of SVAs, may raise speculation and concerns about how voting patterns and electoral results will change.

Reasons for a potential lack of trust in specific SVAs are spelled out and elaborated in Chapter 5, which describes the various types of SVAs. This section will briefly examine some common aspects that may make any SVA suspect, and some steps that states may take to promote trust and acceptance of SVAs as they are developed and introduced.

The conventional electoral process

SVAs may be distrusted in part because the 'conventional' electoral process is so well designed to promote voter trust. The presence and supervision of the process by election staff, the secrecy of the voting booth, the frequent presence of cross-partisan representatives and neutral observers, all engender confidence in the act of voting at a polling station on election day. That votes are usually counted, and preliminary results announced, soon after the close of the polling station further reinforces trust. Instances of fraud or error may still take place on a conventional election day. Most voters in most electoral democracies believe, with justification, that their conventional vote has been counted and that all valid votes cast that day have been tallied fairly and accurately.

In other contexts, SVAs may be distrusted because the basic electoral process is distrusted—if the EMB is unable to ensure trust in conventional voting, it is certain to face challenges in gaining trust in SVAs. In such cases, the need to build trust is a deeper level problem—although it is conceivable that a commitment to expand

inclusion via a simple and transparent SVA might form part of a recovery strategy.

How SVAs deviate from conventional voting

One thing that all SVAs have in common is that they deviate in some manner from the conventional voting experience.

1. Some SVAs cannot ensure secrecy of the ballot (e.g. postal, online and Internet, proxy, assisted voting).
2. With some SVAs, the vote takes place without electoral staff supervision or neutral or partisan observation (e.g. postal, online and Internet voting). In other cases, observation may be difficult even if allowed (e.g. at polling stations abroad and mobile voting sites).
3. Other SVAs require the secure storage of marked ballots for an extended length of time before they are counted (e.g. early, postal, online and Internet, multi-day and staggered voting).
4. Still other SVAs will require the secure transport of marked, uncounted ballots to the EMB by election officials, by postal workers or through technological processes (e.g. mobile, postal, online and Internet voting, voting at some polling stations abroad).
5. Provisional or tendered votes are cast under a shadow of uncertainty since the acceptance of the vote hinges on a later determination of the voter's eligibility.

In some states, these deviations may not raise significant concerns (at least initially). Voters may accept new or expanded use of SVAs because of the nature of the SVA or faith in institutions such as the legislature and EMB, among other reasons. In other states, however, each of these elements of an SVA may create doubt in the integrity of the process and, if SVAs are employed in an election on a wide scale, may create a lack of confidence in the validity of election results.

Even beyond these unavoidable aspects of SVAs, some SVAs may not be trustworthy because of flaws in their design and implementation. For example, unnecessarily burdensome procedures to access the SVA, as may be the case with some postal voting processes and at some polling stations abroad, can result in a significant number of potential users unable or unwilling to submit a ballot. Online and Internet voting processes that are poorly designed may result in

voters failing to cast votes properly. Voters may lack confidence in assisted voting processes that include unclear procedures on who may assist and how that assistance is to be provided. Voting processes that rely to a great extent on provisional ballots may create distrust in the validity of the voter registry and the electoral process overall.

Some SVAs may also be more vulnerable to manipulation. In some states that have turned to wide use of postal voting, there have been claims of organized fraud or improper influencing of the process. Hacking of an online or Internet voting system remains an ongoing concern in states that have tried or implemented this SVA. Some proxy voting arrangements have raised concerns about phenomena such as 'family voting' or other circumstances where a voter pressures one or more persons to vote in a certain manner. Inside some domestic special polling stations, such as those in prisons or other detention centres or on military bases, voters can face pressure to vote in a certain manner. Pressures from both inside and outside of polling stations abroad may result in effective voter intimidation. Well-designed and implemented safeguards can limit or prevent many of these vulnerabilities, but without them voters' and other stakeholders' lack of trust in these SVAs may be warranted.

Disinformation, misinformation and malinformation

Electoral administrators in many states have also had to face the rising threats of disinformation and misinformation: '"Disinformation" is deliberately created with the intent to cause harm, while "misinformation" is incorrect information shared by people who believe it to be true' (Gordy Giwa 2020). Malinformation—accurate information that is deliberately manipulated or put in a context that is intended to cause or result in harm—may be a further threat.

Modern disinformation, misinformation and malinformation in the electoral context can weaken the perceived legitimacy of an electoral process, including SVAs, and create doubts about the accuracy of electoral results.

With the rise of social media particularly, modern disinformation, misinformation and malinformation in the electoral context can effectively weaken the perceived legitimacy of an electoral process, including SVAs, and create doubts about the accuracy of electoral results. These forms of false information have caused harm to the efficient conduct of SVAs in several states, resulting in voters not following the procedures, a high volume of emails and phone calls to EMBs from voters seeking correct information, protests against

electoral officials, and doubt being cast on the integrity of different SVAs without evidence (Center for Internet Security 2022).

Building trust in SVAs

There are several considerations that EMBs and other state institutions might employ to promote confidence in an SVA.

Choosing the right SVA

A first consideration is choosing the right SVA to adopt. For a variety of reasons, a particular SVA may not be viable in a particular state. Proposed SVAs such as proxy and postal voting have been accepted in some states, explicitly rejected in others, or met with ambivalence, in part because of cultural norms, traditions or previous experiences.[5] Context matters. Technology-intensive SVAs such as online or Internet voting may go largely unused if a critical mass of voters lacks basic familiarity with such technology or a desire to engage with it. If the infrastructure necessary to allow an SVA to work—such as an efficient postal service or widespread Internet availability—is lacking, introduction of that SVA will inevitably appear unwise.

Incorporating public and other stakeholder feedback in the process

Public input can play a role in building trust in and ownership of the process. Ensuring that the public and other key participants in the electoral process, such as political parties and CSOs, play a meaningful role in the development of laws and regulations governing an SVA, with active consideration of their feedback by lawmakers and other decision makers, can result in a better, more confidence-inspiring final product. In cases, for instance, where there is well-founded criticism of planned or existing SVAs, lawmakers can consider this input when improving an SVA or determining whether the proposed SVA is appropriate. Such a cooperative approach does not guarantee SVA long-term success, but ensuring that the voices and interests of diverse stakeholders are considered when developing an SVA may make its initial acceptance more likely.

Ensuring that the public and other key participants in the electoral process play a meaningful role in the development of laws and regulations governing an SVA, can result in a better, more confidence-inspiring final product.

5 In France, for instance, postal voting was banned some decades ago and was the object of discussions again when other countries were using it during the Covid-19 pandemic. See Bermingham (2020).

Institutional credibility and confidence

In some countries, especially those with a long democratic tradition, parliaments, courts and EMBs may already enjoy a high level of trust and respect, making decisions to establish an SVA or to expand use of SVAs less controversial. A social narrative supporting SVAs (e.g. Switzerland (O'Sullivan 2020) or Germany[6] with postal voting) could have already been built up. These institutions are more likely to receive the benefit of the doubt at least initially, although SVAs may still grow to be distrusted or unpopular later, even in states with trusted institutions.

In other states, however, institutions may have weaker reputations for fairness or competence, making the need to build confidence in any reform involving SVAs more difficult. As (often) unelected officials, EMB decision makers may be targeted by stakeholders if their rules and regulations governing an SVA are seen as favourable to one party or faction or as inconsistent with the constitutional or statutory electoral legal framework.

Legislatures can promote trustworthiness in an SVA through building cross-partisan support, and explaining clearly how an SVA will potentially advance the interests of both voters and any other electoral stakeholder.

In this sense, electoral regulators must be particularly cautious when developing and implementing regulations governing SVAs. Legislatures, which are institutions that are actually driven by political interests, can still promote trustworthiness in an SVA through building cross-partisan support,[7] and explaining clearly how an SVA will potentially advance the interests of both voters and any other electoral stakeholder, political parties in particular. Legislators must at a minimum ensure that any provision governing the implementation of an SVA includes standards for verification by stakeholders of the integrity of the SVA process, and that the SVA is being operated consistently with the correctly enacted legal provisions governing it. Courts that adjudicate SVA-related cases may face a similar challenge if their decision is seen as overreaching existing law or unfairly benefiting partisan actors. Therefore, a robust electoral judicial system is needed. Lawmakers further perform a service by ensuring that the law is comprehensive and clear regarding

6 In Germany, in contrast with other countries, postal voting benefits from a sound social and institutional consensus in the sense that no major controversy exists on its usefulness. Moreover, it is widely used (and accepted) by citizens. See Witting and Bateson (2021).

7 See the Pennsylvania debate on the introduction, with bi-partisan support, of postal voting (Murphy 2019).

the extent and limits of an EMB's independent authority to devise SVA electoral procedures consistent with law.

In any case, even with such efforts, and depending on the electoral history of the country, an electorate may still need time to accept and trust new SVAs. The legal approach as such might not be enough to enhance an SVA's legitimacy, and supplementary measures, such as voter awareness and education, are normally required for achieving the stable social approval that will strengthen it.

EMBs, not lawmakers, are effectively responsible for the implementation of most aspects of an SVA and answerable to both lawmakers and other leaders and the public for an SVA's administration. Competent, consistent and lawful administration of SVAs can promote public trust in the fairness of these procedures and the credibility of electoral results over time. In addition to employing well-trained staff, EMBs and other relevant state entities need to be prepared to demonstrate that they can and will address irregularities and errors in the administration of SVAs that may occur. Further, EMBs may be called upon to make decisions that could have a great potential impact on the overall legitimacy of the electoral process, such as a decision to reschedule an election due to urgent circumstances. To be effective SVA administrators, EMBs and their personnel will require financial resources and support from their governments, enabling EMBs to provide adequate training, efficiently address irregularities, and ensure salaries and other benefits adequate to retain experienced, capable administrators over multiple electoral cycles.

Competent, consistent and lawful administration of SVAs can promote public trust in the fairness of these procedures and the credibility of electoral results over time.

In more unorthodox settings, such as the ad hoc establishment of special polling stations in prisons, in hospitals or overseas, or in the administration of mobile ballot boxes, ensuring the same or analogous institutional outcomes may be particularly challenging. Additionally, and given the key role that vendors may have in the implementation of certain SVAs (e.g. Internet voting), a fair dialogue should be established with EMBs, who need to have well-prepared staff capable of understanding and duly assessing products offered by providers.

Voter education

Many SVAs require a lot from voters. SVAs and related procedures tend to be more complicated, for both registration and casting a valid vote. In most cases, voters who wish to use an SVA must take additional steps such as applying to be on a special voter registry or to receive a postal ballot. They must comply with a special set of instructions to vote with assistance or to vote outside their home precinct. All these constraints apply particularly in uncontrolled environments. No matter how straightforward these extra procedures are, they may be challenging for some voters, resulting in a reluctance to accept and use these SVAs.

Voter education can play a crucial role in building greater acceptance of any SVA.

Voter education can play a crucial role in building greater acceptance of any SVA. An effective voter education programme may have to raise awareness not only of the SVA's existence and how it operates and meets best practices, but also of why it was established to make suffrage more convenient for more people, who is eligible to use the SVA, the steps a voter must take to avail themselves of an SVA, and reassurance that a vote cast by SVA will be counted as a conventional vote would. Importantly, a voter education campaign must indicate how some of the potential pitfalls of the SVAs, such as concerns about ballot security or risk of the ballot not being counted, have been addressed.

To be effective, voter education campaigns typically must work on multiple platforms. They must take steps to reach audiences served by the SVA. In the case of marginalized groups, this might be particularly challenging. Involving targeted CSOs and holding public meetings on SVAs are some of the effective measures that can be taken to consolidate the overall outreach.

Social and institutional learning curve

Changes involving SVAs may include some growing pains. This is particularly true for new SVAs, or SVAs that are suddenly used on a wider scale in an election cycle. Voters will make mistakes. Partisan actors will also make mistakes or will attempt to test the limits of what they can legally do to achieve a more favourable electoral outcome. Election administrators, even with full training, may make mistakes in implementing SVA procedures.

Any SVA implementation has to foresee a certain learning curve[8] and it is therefore essential that stakeholders recognize this by:

- ensuring that the SVA component of any election can be reviewed and formally audited in a manner that is rigorous, transparent, and fair to all partisan actors;
- learning from past successes and failures when attempting to administer the SVA in a future election;
- keeping a cooperative and inclusive approach, bearing in mind that all stakeholders, even the ones against the relevant SVA, are crucial for its successful implementation;
- working to address irregularities and fairly resolve disputes in real time when possible; and
- in more serious disputes or other matters, ensuring a fair proceeding before the court.

Accurate reporting on SVAs

Despite efforts of the EMB and other leaders to promote confidence in an SVA, voters may remain sceptical. Past examples of failures of SVAs in their own country or in other states may be well known to voters. As part of the freedom of information that is essential in any democracy, voters have a right to know about past performance of an SVA. The number of users, subcategories of voters if available (e.g. gender, race, age), where the use of SVAs was more prevalent—this information may help a voter decide whether they wish to trust and use an SVA, and if so which one, or whether conventional voting is the better option for their circumstances.

As part of the freedom of information that is essential in any democracy, voters have a right to know about past performance of an SVA.

As importantly, perhaps, in cases where SVAs have a record of being used in previous electoral cycles, administrators should make voters aware of the efficiency of the SVA process, particularly if the error rates are higher among certain types or communities of voters, such as poor or vulnerable communities. This will not be an issue with some SVAs. Early voting, special polling station voting,

8 See, for instance, the case of Estonia and its learning curve when it came to implementing online voting (Ehin et al. 2022).

and other SVAs involving in-person voting at a polling station should generally result in a similar rate of valid votes. Other SVAs, however, may have a less optimal record. Voters considering voting by mail, for example, may wish to know what percentage of postal ballots were not counted in a particular election and the reasons why not (e.g. improper or incomplete voter information, lack of matched signatures, arriving too late to be counted). Likewise, online voters can decide on the use of this SVA based on past performance and, if available, data from other countries using similar technology.

In the eyes of the public, rejected votes will likely have a higher impact on SVAs compared to conventional voting. Addressing unduly high rates of ballot rejection may include looking back and analysing issues that may have led to these problems. Do standards need to be changed? Does a deadline for accepting postal ballots need to be shifted to ensure a greater number of votes? A 'lessons learned' process, involving input from the public, parties and candidates, CSOs, and other key stakeholders, can help to provide solutions against high SVA rejection rates, thereby contributing to trust building and SVAs credibility.

SVAs may be even more susceptible to problems caused by dis- and misinformation than conventional voting.

Strategic communication policy

States can face an enormous challenge in countering election disinformation, and the spread of it as misinformation on social media and elsewhere. Because they are different from conventional voting and because they often depend upon the voter following a certain set of procedures to access the vote, SVAs may be even more susceptible to problems caused by dis- and misinformation than conventional voting (International IDEA n.d.). A clear, transparent and effective strategic communication policy is therefore necessary (ACEEEO 2020; Bay and Šnore 2019; Commonwealth 2020).

EMBs can address these issues by strategic messaging themselves (Reppell 2021). In this regard, early-monitoring units capable of quickly identifying harmful messages are very helpful.[9] Moreover, encouraging voters to question information they may receive from

9 In North Carolina, the Mythbuster initiative launched by the EMB answers questions and debunks myths and rumours regarding elections. The North Carolina State Board of Elections (NCSBE) has developed 'a social media series focused on debunking popular myths in North Carolina elections and elections at large' (NCSBE 2022a). See an example at NCSBE (2022b).

other sources—and the quality of the sources themselves—and to seek confirmation can be effective. Enhanced cooperation between EMBs and independent fact-checking actors in particular may consolidate a healthier information environment.

Messaging from the EMB can be amplified in partnership with media, parties, schools and universities, and CSOs. Some EMBs already have experience in signing agreements with social platforms, thereby ensuring a more visible way to debunk erroneous messages via disclaimers and specific posts.

In general terms, the EMB's strategy to counter SVA-related disinformation, misinformation or malinformation does not vary from the one established for other aspects of the electoral process. Limitation of certain aspects that prove to be harmful (e.g. unlimited forwarding on messaging services) may be adopted as a preventive measure to battle disinformation, misinformation and malinformation. Internal EMB coordination on how to disseminate information—ensuring that the EMB speaks with one voice—is crucial.

Corrective or confirmatory measures regarding SVAs: Trust but verify

Ideally, SVA voters should not only have reason to trust that their vote has been received and counted but be able to verify this information. With SVAs involving in-person voting (e.g. voting at domestic or overseas special polling stations, assisted, mobile or early voting), this may not be a concern, since voters would be present to witness their names being checked off the voter rolls. In the case of proxy voting, voters should have an opportunity to ascertain whether their ballot was cast by their proxy. In the case of tendered or provisional ballots, potential voters should be able to find out whether their ballot was accepted or rejected. This information may help voters make a better-informed decision about how they plan to register and vote in subsequent elections.

Ideally, SVA voters should not only have reason to trust that their vote has been received and counted but be able to verify this information.

In the cases of postal voting and online voting, other corrective or confirmatory measures may increase voters' comfort with and confidence in the process. These include the following:

- providing the ability to track one's ballot cast on or before election day to check it has been received and accepted by an EMB;[10]

- providing voters who may have failed to follow procedures with their postal ballot with the opportunity to 'cure' or correct their error: a system that notifies a voter directly, or that provides information online, regarding defects in a voter's postal ballot application will give a potential postal voter a greater chance to correct their error and then submit a valid ballot;

- allowing flexibility to change one's chosen method of voting from one SVA to another or from an SVA to conventional, election-day voting: in some states, once a voter has decided to vote using a particular SVA they are unable to vote by any other method; or

- the ability for voters to change their originally cast votes: some jurisdictions allow voters to cast another online vote before election day (e.g. Estonia (Valimised n.d.a)); others allow voters to cast a paper ballot on (or before) election day that supersedes an earlier ballot (e.g. Estonia (Valimised n.d.a) or Michigan, US (Michigan Department of State n.d.)).

These measures, however, may not be feasible in all circumstances and can add significantly to the SVA cost and the administrative burden of an EMB.

Country example: SVA voter education in Bhutan

Social networks altered the ways EMBs reach out voters to disseminate information related to voter education. Together with traditional channels and other innovative mechanisms, videos posted in the most used social platforms in a given country may be significantly helpful to raise awareness on certain electoral procedures.

10 The UK's Electoral Commission reports rejection rates for postal ballots in recent UK elections. The reasons why they have been rejected were partially related to incomplete postal voting packs where either signature or date of birth did not match with the pre-existing databases, but 'since 2014, Electoral Registration Officers (EROs) have been required to notify electors if their postal vote has been rejected and give the reason(s) for rejection. They can also request the elector to provide an up-to-date signature' (UK Electoral Commission 2019a). While in 2014 the total rate of rejected ballots was 4.7 per cent, four years later, with a new mechanism, it dropped to 2.7 per cent (see UK Electoral Commission 2019b).

This is the case in Bhutan, whose electoral commission relies upon Facebook and YouTube to educate voters on how to vote by postal ballot.

Bhutan is not an isolated case. Many EMBs take advantage of these powerful tools, and voter education goals are perfectly aligned with the nature of social networks. Moreover, given the risks of disinformation, misinformation and malinformation trends that could spread across the net, using the same channel to disseminate correct information and battle negative patterns seems highly desirable.

6.2. **RISK ASSESSMENT**

Risk assessment and elections

Risk assessments are a normal and even traditional step for any project implementation, and electoral processes are no exception. Providers routinely conduct these types of studies when planning how to deliver different aspects of the electoral portfolio. Risk assessment consists of analyses that evaluate how a given project will be implemented, thereby identifying vulnerabilities, categorizing them and proposing a range of contingency and mitigation measures. It is a crucial tool for any complex process where a combination of different factors needs to be considered. However, due to the unique features of elections, risk assessment might not be carried out fully. Political considerations and attention given to fundamental rights at stake, which would take precedence over other considerations, could explain this. However, trends that have been consolidated over recent years, mainly through new voting technologies, indicate that electoral authorities and suppliers attach renewed importance to this analysis. Cybersecurity concerns related to elections, for instance, where threats have to be anticipated and duly faced through comprehensive cyber hygiene, are good examples of how risk assessments may improve elections delivery.

Risk assessment and SVAs

SVAs diverge from conventional voting by intending to address the needs of specific groups of population. This means that having the correct approach to how risk assessments have to be conducted is much more important. When they involve innovative voting channels

SVAs offer clear advantages but also new risks that have to be duly evaluated and addressed. As already noted, SVAs often entail a trade-off where priority is given to one election principle—mostly accessibility—over other criteria, such as secrecy. This is a risk and, if not duly assessed beforehand, both election integrity and the legitimacy of the process could be severely undermined. Risks may also impact other aspects of the electoral process, such as carrying out electoral administration or resolution of electoral disputes. They are the normal consequences of SVAs being exceptional mechanisms that go hand in hand with new concerns.

Implementing new SVAs is not always a smooth, error-free process.

Feasibility studies, together with SVA pilots, have proved to be a reasonable approach to assess the consequences of a specific voting procedure, either good or bad, in a timely manner. They are precious tools for decision makers but sometimes skipped due to political pressures or other types of considerations. Firstly, the actual scope of feasibility reports is broader than the one of risk assessments. Their purpose is to determine capabilities, and not only risks, but they normally include a comprehensive risk evaluation. Secondly, implementing new SVAs is not always a smooth, error-free process. New SVAs can affect how every aspect of the electoral process is conducted, and errors may occur in adjusting these processes to conform to an SVA. Jurisdictions attempting to test SVAs usually go through a pilot process, determining what procedures are best for promoting voting and protecting rights but also the least onerous for electoral officials to implement and best designed to prevent voter fraud. These tests will feed into the risk assessment process and provide decision makers with information coming from real experiences. They will complement other analytical approaches and improve risk assessment as an output which can help with making adjustments to how an SVA is implemented—or with deciding not to—while carefully considering all interrelated factors.

General patterns

The variety of SVAs makes difficult any exercise intending to highlight general patterns that may be present in all voting arrangements. However, some general observations can be made. First, there is a broad range of risks to be considered, given that SVAs target almost all aspects of the electoral process. Secondly, social and political consensus appears to be a crucial step forward given the trade-

offs that need to be accepted. Second, risk assessments should be accompanied by a contingency strategy and mitigation measures that anticipate challenging scenarios and negative effects.

SVAs are facing multifaceted risks

The list of risks that accompany SVA implementation is as long as the threats that normally challenge an ordinary electoral process. Given the nature of SVAs, there are also additional concerns. This section does not intend to offer a comprehensive list. Instead, it highlights certain challenges and stresses that SVA implementation cannot succeed without a prior risk analysis. Moreover, this process will have to be duly customized to the specific, and highly variable, SVA features. A traditional risk analysis mostly focused on conventional voting would add little value.

First, socio-political factors need to be considered—possibly the first risk to take into account. As these risks relate mainly to the trade-offs inherent to SVAs, they are covered in that section below. Social parameters are closely related to the awareness of electoral stakeholders—a key parameter when considering the implementation of an SVA. Such mechanisms alter the ordinary understanding of an electoral process and therefore require particular attention being paid to accurately capture their main features, either advantages or vulnerabilities. For instance, the process is sometimes accelerated and will only consider the positive effects that any SVA always carries but neglect other consequences. SVAs are conceived to overcome specific barriers that exist with ordinary procedures and to provide accessible voting options. Therefore, the first assessment will generally be positive, and decisions could be taken on the basis of a partial and limited understanding. To counter this, risk assessments may need to evaluate the knowledge of the electoral stakeholders vis-à-vis the implementation of a given SVA. Low awareness could create mis-expectations, lead to frustrations and in the end impact on the credibility of the entire electoral system, as noted above. Socio-political factors and SVA awareness go hand in hand and, if not duly addressed, may pose problems when implementing these mechanisms. In addition, instances of disinformation about SVAs, resulting from stakeholders' low awareness, may require attention. Risk assessments would need to focus particularly on voters' understanding, and the negative effects that incorrect perception may

ultimately have. This is why customized voter education has a crucial role to play.

SVAs normally introduce entirely new voting avenues that need full reconsideration of all electoral stages, that is, from voter registration to results tabulation.

Second, risk assessments will focus on procedural and operational issues, such as the impact on the electoral administration or the likelihood of electoral frauds. SVAs clearly entail an extra burden for EMBs. There could be some exceptions (e.g. staggered voting), but SVAs normally create new procedures, involve new actors, extend the electoral calendar and require specific skill sets. In this regard, SVAs should not be seen as secondary innovations that only aim to improve concrete components of a general voting procedure. Instead, SVAs normally introduce entirely new voting avenues that need full reconsideration of all electoral stages, that is, from voter registration to results tabulation (see also Chapter 7).

With this in mind, risk assessments should perhaps focus on the impact of new SVAs in the ordinary electoral machinery. It is not unusual, for instance, to find understaffed EMBs, delayed budgetary allocations or inefficient communication protocols among public entities. This would be a concerning basis for any electoral process, but would be even more challenging for any planned SVA, should additional disenfranchisements exist because of operational issues. Likewise, well-resourced electoral bodies might also face problems when implementing new voting arrangements. As noted above, adjustments will have to be applied to the entire structure and change of management protocols will be needed.

Moreover, challenges with SVAs may be a function of sudden and heavy usage. Verifying and counting 100 provisional ballots, or processing 1,000 postal ballot packages, may not be unduly burdensome for electoral workers. Multiplying those figures by 10, 100, 1,000 or more, however, could result in higher numbers of voters making errors in the application and voting process and higher numbers of ballots failing to arrive on time. High-volume use of SVAs that involve casting a ballot well before election day (e.g. postal, Internet, early) may also give rise to concerns regarding the timeline of other electoral processes that may affect the integrity of the entire electoral process. Unexpectedly high use of SVAs that require the processing or verification of votes in the days following election

day may lead to delay in the declaration of results, and consequent challenges to legitimacy.

Importantly, overwhelmed or rigid EMBs may be ill-prepared for innovative mechanisms and risk assessment should anticipate such scenarios and propose solutions.

Beyond organizational variables, potential electoral frauds may become a key concern when considering the implementation of SVAs. Such mechanisms alter the secure conditions where conventional voting takes place because uncontrolled environments (e.g. online voting) are used, new actors are involved (e.g. proxy voting) or new procedures are implemented (e.g. early voting). All these new components stem from an initial compromise, where some guarantees are given up to benefit certain voters and make procedures more accessible. Should some controls disappear, the likelihood of electoral frauds (e.g. ballot stuffing, family voting, double voting, anonymity breaches, ballot integrity) will certainly increase, and SVA policies should not hide this uncomfortable consequence. Risk assessments will be the analytical tools used to evaluate the extent to which such new vulnerabilities will impact on the electoral process. Many identifiable risks could be systematized in an objective way, and key threats analysed per SVA, as highlighted in Chapter 5; however, the outcome of the risk assessment may vary from country to country. While postal voting, with its risks in terms of fraud (e.g. impersonation), may be a widely acceptable voting channel in some cases (e.g. Switzerland (O'Sullivan 2020)), other countries will reject it. Postal voting, or other relevant SVAs, will have the same features, but the social environments will be different. That is why a risk assessment is always necessary for the implementation of any SVA.

The legal framework should also form part of the risk assessment. It is not a mere organizational or operational parameter and needs a specific approach to evaluate its impact on the SVA implementation. An SVA may increase the likelihood of controversies and a more complex electoral dispute resolution. A risk assessment will tackle aspects such as the constitutional provisions acting as overarching rules that apply to the whole electoral process and that stipulate factors such as: which principles to consider; the legal tradition of the given country and the usual role of courts in resolving disputes; or the

legal awareness of electoral stakeholders—although it does not need to be an exhaustive analysis. It merely needs to identify potential weak aspects in the overall legal structure.

Beyond general considerations, every SVA could also carry legal concerns that may become important barriers for its implementation, thus worthy of being assessed by a risk analysis. It is the case, for instance, with online voting and how German courts assess its implementation. Although familiarity and comfort with an SVA may be an important consideration, courts may also determine that convenience or other positive factors cannot outweigh potential infringement of fundamental electoral rights. In 2009, despite several years of use and familiarity with an electronic voting system, Germany's Federal Constitutional Court ruled that electronic voting (i.e. voting machines) could not continue unless the vote and its results were examinable by the public without the need for special, technical knowledge (BVerfG 2009: section 158; Goldsmith and Ruthrauff 2013: 107–09). The Court did not prohibit the EMB from ever using an electronic voting system in the future, only that it must be designed in a way that facilitates examinability of the process without need for specialized or technical knowledge in accordance with the principle of the public nature of elections (BVerfG 2009: section 158; Goldsmith and Ruthrauff 2013: 107–09). A risk assessment could anticipate this sort of conflict, proposing a way forward.

As a pressing topic, natural (e.g. Covid-19) and other unexpected factors should not be neglected in any risk assessment. It is one of the main lessons learned when considering the impact of the pandemic in the electoral operations, but the pandemic was not the first nor the last time when unexpected events altered ordinary electoral procedures (e.g. earthquakes, strikes). In any case, the role of risk assessments here is twofold.

First, SVAs might be seen as useful first-hand resources to be used when conventional voting is not available. SVAs provide the flexibility that will be needed in these contexts. Therefore, risk assessments of conventional voting may benefit from referring to SVAs as alternative methods to be considered. They can elaborate on which ones will

be more suitable depending on the country's features, that is, legal framework, electoral traditions or potential problems to be faced.

Second, SVAs themselves could suffer from the consequences of a range of unexpected factors. Ballots coming from abroad could be blocked due to strikes in international carriers, unrest could damage electoral material and even actual ballots well in advance of the election day, or communication systems that are crucial for online voting could be hacked, to name a few. Risk assessments should be comprehensive enough to identify as many of these parameters as possible, and to detail measures to be adopted in each case.

Risk assessments as analytical tools cannot be seen as silver bullets capable of addressing and solving any problem related to SVAs: instead, they follow a methodology where events are classified according to their likelihood and seriousness. Nor can risk assessments be seen as tools proposing automatic decisions: they intend to support decision makers, not replace them.

Trade-offs are inherent to SVAs and therefore consensus building is crucial

Conventional voting is a well-established procedure that carries a number of guarantees intending to protect the main electoral principles. It has evolved over at least two centuries (e.g. through the successive introduction of the secret ballot, the voter register, and the Australian ballot in many countries). It offers variations when considered country by country, but in general terms it proves to be a robust mechanism for casting votes while protecting freedom, secrecy, integrity of the ballots and public oversight, which would be the main components of a voting procedure.

Conversely, SVAs change very familiar procedures and explore new options. While they enhance accessibility, which is often their main purpose, they are often accompanied by weaker guarantees in terms of voter registration, authentication, secrecy, freedom, results transmission or tabulation. This will be the price to pay if accessibility—and the corresponding effective universal suffrage—is to be achieved. A trade-off is always necessary, and risk assessments should duly evaluate how it is achieved.

Consensus building emerges as a crucial step, and SVAs need to pay attention to social and political factors, such as the credibility of the results, which would be absolutely crucial for the acceptance of any innovative voting channel.

Consensus building emerges as a crucial step, and SVAs need to pay attention to social and political factors, such as the credibility of the results, which would be absolutely crucial for the acceptance of any innovative voting channel. Such an outcome is not necessarily related to the robustness of the voting mechanism itself. It is not unusual for sound voting arrangements to be misperceived by voters, or certain groups of voters, so that the SVA being considered may undermine the stability of the existing system, rather than be a benefit for vulnerable voters. There may be no rational explanations for such a scenario. It depends on social and political indicators that may evolve in parallel with, and with no connection to, efforts made to improve the electoral system. Partisan interests, for instance, may attack the credibility of a promising SVA due to electoral calculations. Therefore, risk assessments cannot be limited to technical and operational aspects. They should also consider the overall political environment: how a given trade-off is processed and perceived by both the whole voting population and any specific target group that could be tempted not to accept it.

A variety of contingency and mitigation measures are applicable to SVAs

Risk assessments evaluate challenges that will have to be faced when implementing SVAs, but they should not merely enumerate threats. Instead, they need to anticipate what could happen and, while identifying risks, provide recommendations. Moreover, different scenarios are normally taken into account, with solutions varying accordingly. Contingency plans and mitigation measures are traditional responses when actions that entail certain risks have to be implemented, as is normally the case for SVAs.

Contingency plans will anticipate total or partial failure of an SVA, and the corresponding solutions, to avoid a collapse of the electoral process. While some SVAs may replace the entire conventional process, such as a universal postal voting system, other options have a limited scope and pursue concrete improvements targeting specific voters. The fact that many SVAs take place before the election day is a clear advantage, as a normal and simple contingency plan would consist in allowing affected voters to cast their ballots using conventional mechanisms. The advantages of these SVAs will likely be lost, but at least these voters will not be totally excluded from

the electoral process. Early voting, online voting, postal voting or even proxy voting, for instance, may include specific arrangements allowing voters to use conventional voting if necessary. Voter registration and authentication procedures would need to be adapted to such last-minute arrangements, but they are feasible, provided this scenario has been anticipated. This would be the role of a risk assessment analysis.

On the other hand, other SVAs, such as assisted or homebound voting, may need different approaches, or it might become impossible to offer a meaningful alternative. How to proceed, for instance, if nobody is available or willing to assist a voter to cast their ballot? How to proceed if a shortage of polling staff prevents a mobile ballot box from being deployed to the households requesting one? No practical adjustments may be feasible, and the risk assessment should anticipate such scenarios as well. Communication policies and awareness-raising activities will have a key role here, in order to defuse frustrations that could impact on the credibility of the system.

In addition to contingency plans, risk assessment should also consider mitigation measures. Given that trade-offs are in place, with certain guarantees therefore being compromised, mitigation measures aim to minimize negative effects and thereby consolidate the acceptance of the relevant SVA. These measures will depend on each SVA, which makes their systematization difficult. A tailored ad hoc approach is necessary. For instance, proxy and assisted voting may wish to limit the number of voters helped by one single person; online voting may admit voting more than once in order to safeguard the process against instances of coercion; and mobile ballot boxes might increase double checks, ensure that the composition of polling staff serving such special arrangements is similar, or reinforce voter registration and authentication rules—which would also benefit postal voting.

However, mitigation measures may also have side effects, if not correctly implemented. Limiting the time frame when pre-election day SVAs are available to a period closer to election day, or requiring that only voters with a valid reason be eligible to use SVAs, could serve to address some recurrent SVA problems, such as voters casting ballots having just or not yet received information from the election

campaign, or SVAs overwhelming EMBs' capacity, but they may also create new concerns regarding accessibility. Limited availability of some SVAs close to election day may result in fewer voters or missed deadlines. Establishing or re-establishing SVAs only for persons who have certain reasons for using them may also raise objections from voters who have no 'valid' justification but would benefit from the convenience of these SVAs.

Proportionate, balanced and context-based measures are needed to maximize both accessibility and other electoral principles.

In general terms, easy solutions to these challenges are not readily available. Proportionate, balanced and context-based measures are needed to maximize both accessibility, which is often the main rationale behind SVAs, and other electoral principles.

Country example: online voting in Estonia

Online voting is a very special SVA given its technological requirements. It shares certain concerning aspects with other voting arrangements, but specific factors exist in this particular case. Risk assessments have a prominent part to play, partly because these analytical tools are a very familiar asset in any IT project. Among other issues, online voting credibility is built on a 'black box' that prevents non-experts from having a meaningful oversight, as noted above in relation to the German case law. Moreover, while conventional voting normally deals with isolated frauds, online voting would scale up the risk with broader attacks. Consensus building is therefore much more important than in other voting mechanisms and trade-offs are crucial. Moreover, mitigation (e.g. cyber hygiene) and preventive IT measures (e.g. Swiss penetration tests (Swiss Federal Chancellery 2019)) could apply.

Estonia has considerable experience in this area. It pioneered online voting back in 2005 and is still the only country where this mechanism is used nationwide and for all elections. The public and other stakeholders have grown more comfortable with online voting after a learning process over several electoral cycles. Risk assessments, audits and measures taken afterwards based on lessons learned have been a key tool to accommodate and update the system on a regular basis (Valimised n.d.b)—see, for instance, steps taken following ODIHR recommendations in order to strengthen the integrity and secrecy properties (OSCE/ODIHR 2019: 8).

Summary

- When admitting innovative voting channels, SVAs offer clear advantages but also new risks that have to be duly evaluated and addressed.

- SVAs face multifaceted risks (e.g. sociocultural, operational/logistics, legal gaps, attempts of fraud).

- Given such risks, trade-offs are inherent to SVAs and therefore consensus building is crucial. In any case, a variety of contingency and mitigation measures are applicable to SVAs.

6.3. **TURNOUT**

Turnout is closely related to the accessibility of the elections: certain turnout rates cannot be achieved if a segment of the population is de facto disenfranchised due to the lack of effective means to cast ballots. SVAs address circumstances that usually decrease turnout, such as risks related to conventional voting (e.g. public health,[11] violence), disabilities or political status (e.g. refugees, IDPs), among others. SVAs aim to address this problem, which is why a certain interrelation may be established between SVA implementation and a higher turnout: this would be likely to increase by improving voting flexibility in terms of time to vote (e.g. early voting), place to vote (e.g. special polling stations) and even how to vote (e.g. assisted voting, provisional ballots).

However, things are not that easy. Certainly, abstentionism may be partially explained if accessibility to conventional voting has significant gaps, but a full picture would need to take into account many other indicators. In general terms, voters do not decide to abstain from voting based on convenience arguments. Different factors affect abstentionism as a political behaviour, and voters may have other and more complex reasons for staying away from the polls than practical inconvenience. In Western democracies, for instance, political frustration or apathy due to different causes,

11 See International IDEA's database on how the Covid-19 pandemic impacted the turnout, with some cases where higher rates were achieved (Bicu and Wolf 2020). See also how health conditions may severely impact on voters' participation and how both SVAs and health agents can redress this tendency (Brown, Raza and Pinto 2020).

in particular the modification of traditional patterns for political engagement, may be much more important than operational means to explain high rates of abstentionism. Compulsory voting, if enforced, has an obvious direct effect on turnout regardless of the SVAs in place.

With this in mind, and with the exceptions detailed below, SVA policies should not consider turnout as the main driver for their implementation. Higher turnout could be a positive collateral effect, but there should be other grounds on which to justify adopting SVAs. In this sense, invoking greater accessibility—that is providing an easier way to cast ballots for certain vulnerable groups to be served by these means—would largely be enough for an SVA to be accepted whether or not its actual implementation will result in more voters casting their ballots. The initial goal—a more inclusive and accessible electoral process—will have already been achieved.

These introductory remarks apply to all SVAs, but important distinctions exist between them, even considering the impact on turnout rates. Attention should be paid to the existence of complementary means of voting. While some SVAs are just broadening voting options, others represent the only method by which some groups can vote, and therefore a higher turnout can easily be foreseen.

However, early or, in some cases, postal mechanisms usually complement conventional voting by adding other channels that make voting more convenient for certain voters. Domestic special polling stations follow the same pattern. Obviously, turnout would be higher as some voters will not vote otherwise. However, these solutions intend to address a subjective scenario, that it is the voter making themselves not available for the election day and asking for an alternative. The system was already providing an option with conventional voting, but voters are asking for an additional option due to different personal situations.

Measuring the impact of an SVA when voters have a choice between different voting methods is complex. While voting has been made more convenient, the evidence that these SVAs have led to increased turnout remains inconclusive (Lupiáñez-Villanueva and Devaux 2018).

On the other hand, some SVAs are serving groups who could not vote otherwise, that is, conventional voting as the default mechanism would not meet their needs. Persons with reduced mobility, incarcerated persons or military staff could be in a situation where attending a polling station is not a feasible option. Citizens living abroad could be in a similar situation, as coming back to the home country only for the purpose of voting would be not reasonable due to economic and even legal conditions. Those needing assistance voting will always need special arrangements to cast the ballot. There is no alternative. All these groups would be disenfranchised if no specific SVAs were in place and, therefore, turnout will likely increase with the use of SVAs. The relevant SVA will not just be making voting easier, it will be granting an opportunity that was not available beforehand. Finally, cross-national analysis of voter turnout shows that one key factor that mediated turnout decline during the Covid-19 pandemic was whether postal voting was provided (James, Clark and Asplund 2023).

Beyond this initial distinction, other factors should be considered to assess how SVAs impact on turnout. Firstly, consideration could be given to the group(s) served by each SVA. For instance, homebound voting or special mechanisms for incarcerated persons will clearly increase the turnout because such groups will have only SVAs as a means to vote, but, in quantitative terms, the difference will be rather small given the limited number of persons to be served who are in these circumstances.

For expatriate voters, however, there is a lot of variation. While some countries have a limited group of citizens living abroad, others experience the opposite, with a very powerful diaspora in terms of both the number of citizens and their political role. In that case, establishing a specific SVA for them could result in a higher turnout.

In all cases where a new SVA is implemented with no previous reasonable alternative, turnout is easy to measure. The same goes for the opposite situation, that is, when one of these SVAs is withdrawn. For example, closure of polling stations abroad in South Korea's 2021 elections led to a significant drop in turnout among voters registered abroad (Spinelli and Butcher 2022: 11).

Secondly, it is worth noting that absenteeism as a political behaviour applies to all groups served by SVAs, even those having no other mechanisms to vote, who may also abstain from voting due to political frustration or apathy, despite the incentive of an SVA now being in place.

Thirdly, some SVAs may play different roles, that is, they could serve both people who are unable to go to a polling station and other groups who are simply looking for an easier way to participate. Postal voting is a clear example of these SVAs, depending on whether a justification is needed and what this is. Proxy voting could also follow a similar pattern.

Some SVAs have a rather neutral impact on the turnout, such as tendered ballots or staggered voting. The former applies to someone who has already attended a polling station willing to participate. Some bureaucratic problems may exist, which is why these SVAs are implemented, but in general terms no new voters will be incited to vote just because tendered ballots exist. For staggered voting, the SVA addresses limited EMB capacity to deliver the elections, and not making voting easier for the voters, who will participate using conventional voting methods on the relevant day.

When considering turnout, even with SVAs that will likely increase it significantly, a distinction should be made between turnout rates within the group to be served by the SVA and the total rate. While the former may increase due to new SVAs being implemented, the latter may decrease based on more general factors related to voters' political engagement. Both sets of figures will not be contradictory because they will reflect different approaches. Moreover, once the relevant SVA has been used several times, specific and total turnout rates will likely get closer because any negative impact of the first implementation of the SVA will have diminished.

Finally, in some cases, poorly implemented SVAs could depress turnout, that is, they will fail to achieve rates that the voting arrangement might envisage. As noted previously, trust building is crucial for all SVAs and, if uncertainties exist, some may prefer not to vote. With postal ballots, for instance, the lack of ballot tracking coupled with repeated delays could discourage voters.

The same could happen if SVAs that are theoretically implemented to improve accessibility cause the opposite. Voting abroad, for instance, could worsen if the wrong SVA is chosen. If polling stations abroad are implemented as a replacement for postal voting, citizens could face new barriers that did not exist beforehand, such as travel requirements to the appropriate location, and thus paradoxically turnout could decrease.

Sociocultural awareness could also become an important factor for the acceptance of SVAs. Should their implementation be accompanied by stigmatization of certain groups of voters using them, these voters are likely to refrain from participating, and the SVAs will not fully achieve their intended goals.

Country example: Internet voting promoting turnout in Estonia

Estonia may serve as a reference to assess the extent to which SVAs have an impact on turnout since the electoral system admits a variety of different voting channels. In addition, Estonia pioneered Internet voting as a new and rather different arrangement. Therefore, both scholars and the Estonian Government have used it as an opportunity to understand the interconnection between SVAs and turnout.

Increasing turnout was not the main driver for Estonia to adopt Internet voting. There were other reasons, such as the national strategy that put new technologies at the forefront of all public initiatives. The public administration undertook major reforms to adapt to the digital age and, after a while, it became difficult to justify excluding the electoral process from this programme. Internet voting in Estonia reflects an overall e-system that goes far beyond elections and whereby almost all public services are provided through digital means and online.

From a methodological angle, assessing the impact of a given voting arrangement is far from easy, mainly because voters' behaviour is not solely based on the procedures available for voting. There are many other indicators to consider. Extending SVAs could paradoxically cause lower turnout if the election generates little interest in voters. Should the winner be leading in the polls and citizens' perception, many voters may decide not to vote despite the fact that new voting

arrangements are at their disposal. On the contrary, the turnout could be higher, but not because of the new SVAs in place.

When a clear correlation might be drawn between a specific SVA and higher turnout, it is worth questioning whether this is based on the actual SVA (e.g. Internet voting) or is due to the fact that more options for voting exist: 'Lowering the barriers really brought new voters into the process [in Estonia], but if it was due to computerization, we cannot really say at this stage of research' (Sál 2015: 27).

In 2009, that is, 14 years after the first implementation, scholars had access to figures that could shed light on the potential impact of this specific SVA over the turnout. A comparative analysis of four elections showed that there was a significant impact and the role of early-adopters of new technologies should be confronted with other groups:

> e-voting could only exercise an influence on politically disengaged people after it has been available for a while. For the laggards (as opposed to the early adopters) are the last to adopt the new technologies. Therefore, the mobilization effects that we have found should not be dismissed that easily, since e-voting keeps attracting ever larger audiences. The chances that politically disengaged people stumble upon Internet voting are therefore increasing.
> (Trechsel and Vassil 2010: 58)

Ten years after that, other scholars denied this potential attraction of Internet voting. Based on the experience of 11 elections, 'the deployment of Internet voting does not increase electoral participation—at least not in countries where access to voting is already very good and where early voting is widely available' (Ehin et al. 2022). In brief, SVAs have a direct correlation with turnout when convenience voting is clearly improved, but the impact is rather low when other voting arrangements exist serving a concrete group of voters.

Country example: Early voting effects on turnout in Ohio elections

Continuing with the theme that SVAs only have an impact on the turnout when they lower the voting barriers, but not just as more convenient or alternative voting channels, Ohio elections may serve as an excellent 'testing ground' to ascertain whether early voting—and in particular how many days of advance voting—may alter the outcome of an election or at least attract new voters.

Comparing voting behaviour on opposite sides of county borders, 'a day extra of early voting increases turnout by 0.218 percentage points. We additionally show evidence that those in child-rearing years and prime working years are particularly impacted by early voting availability. We further find that women react over 30 per cent more strongly than men to additional early voting' (Kaplan and Yuan 2020: 58–59).

It is clear therefore that in some circumstances SVAs have a clear impact on turnout, but this cannot apply in general to all SVAs or any environment. As stated above, voters will not suddenly decide to vote just because there is a new arrangement. It will depend on the extent to which this SVA manages to address previous voting barriers, as is the case for the diaspora or voters living in remote areas.[12]

Summary

- Abstentionism and turnout have deep social roots that go beyond the extent to which voting mechanisms are convenient or accessible.

- Some SVAs, particularly when no alternative voting channels exist (e.g. polling stations abroad), may increase turnout, particularly in their first implementations.

- Poorly implemented SVAs could even depress turnout. Trust building is crucial for all SVAs, and if uncertainties exist, voters may prefer not to cast their ballots.

12 See in general for all types of remote voting Lupiáñez-Villanueva and Devaux (2018: 223–24). For how certain aspects of the implementation may impact turnout too, see the deployment plan of the Moldovan voting from abroad system (OSCE/ODIHR 2021).

6.4. **COST**

Cost and elections

Cost is only one factor in determining whether SVAs should be implemented, and which ones. Countries may determine that developing and implementing an SVA may be important for ensuring a free election, regardless of higher cost. The additional costs of elections held during the Covid-19 pandemic are a clear example. While elections are expensive, it may sometimes be necessary to argue the case that they are an investment rather than a cost.

Efficiency and effectiveness can and should, however, always be assessed—both the extent to which the actual sum of money was necessary to achieve the expected goals (efficiency) and the extent to which the money was capable of reaching the targets (effectiveness). Such approaches are not contradictory with providing full economic support to elections and democratic requirements.

Given the complexity of an electoral process, there is a wide range of parameters to consider, such as human resources (which increase during the electoral period), electoral equipment, logistics, premises and IT infrastructure. Economic indicators should also be considered within a broader context of countries whose wealth levels may vary considerably. For instance, it is not unusual for poor countries with urgent priorities in terms of education and health to have to implement expensive processes to deliver democratic elections. Efficiency, effectiveness and a realistic approach are therefore paramount.

Moreover, elections are a field where consistent financial calculations are very difficult to make. No comparison may be possible with equivalent procedures and, therefore, a specific methodology should be built from scratch—an additional burden for these exercises (see e.g. UNDP and IFES 2005; and the section on this topic in ACE Electoral Knowledge Network n.d.). It can be a challenge, for instance, to compare SVA-related costs within a country. There are many contextual factors that may conceal the true cost of one SVA compared with another one: how SVAs are budgeted and paid for, the level of in-kind support that an SVA may receive from a government,

existing infrastructure supporting SVA implementation, and security needs, among others.

A 2021 study on comparative electoral costs in Estonia provides some insights into how one might compare SVAs in any country (Krimmer et al. 2018: 117–31). The study contended that accessing accurate data on electoral costs from governments and calculating aspects such as hidden costs and the value of using existing public infrastructure had made earlier comparative analyses difficult (Krimmer et al. 2018: 119–20). The authors rely on business-oriented methodologies that have been used successfully to evaluate other public sector activities and determine costs per activity.

Cost and SVAs

As SVAs diverge from conventional voting, new participatory channels are created, and thus additional expenses normally exist. In this regard, consideration should be given to policies that may deal with contradictory principles. Should a system be more inclusive in terms of electoral franchise and voting procedures, the resulting elections will be more—or even much more—expensive than a system where only conventional voting is accepted. Therefore, a direct connection exists between greater inclusivity or enfranchisement and this economic indicator. Electoral authorities and citizens in general may wish to decide whether a trade-off is feasible (i.e. renouncing some additional voting procedures due to their cost) or whether priority should be given to political rights, that is, maximizing all means for a fully inclusive election.

Among other factors, the actual number of persons that will take advantage of such SVAs could interfere in the above-mentioned evaluation. Certain SVAs benefit a limited pool of voters but may entail a significant amount of resources, both human and material. Mobile voting for homebound voters, for instance, is an example. Again, it is up to each society to decide the extent to which flexible and easy-to-use voting procedures are required.

In early 2020, during the early stages of the Covid-19 pandemic, the Brennan Center for Justice in the US estimated costs of as much as USD 2 billion to establish or upgrade a series of SVA-related measures for the national elections. This included an estimate in

the range of USD 982 million to USD 1.4 billion to ensure that postal voting was available to all voters who could not currently access it (Norden et al. 2020). Given the costs of all elections to be held in the US that year at all levels of government, the Brennan Center recommended that Congress provide USD 4 billion to help to ensure safe elections (Norden et al. 2020). Given the size of the US and its unique infrastructure, decentralized governance, and existing policies governing elections, however, it may be difficult for other countries to employ this approach when calculating costs for their SVAs.

International standards encourage fully accessible and inclusive voting procedures, but no indication exists on specific mandatory tools. In this regard, out-of-country voting is instructive. While there may be a large number of citizens living abroad, international commitments do not require diaspora voting. Different factors may be weighed here, but the cost is obviously one of the parameters to be considered. Some countries may lack the resources to offer SVAs such as polling stations abroad, at least on a wide scale. Other states may have enough alternative SVAs, such as postal, online, or early voting options, to provide other opportunities to vote for many citizens abroad. Some countries may have a very small number of citizens based abroad, making a vote-from-abroad programme for these few voters rather expensive. Economic considerations could prevail over other approaches closer to political rights. It is an example of how money and elections interact.

Most SVAs act as complementary procedures and therefore widen, rather than replace, available options.

General patterns

Not systematically more expensive

While most SVAs necessitate additional funds, some could even result in savings. Most SVAs act as complementary procedures and therefore widen, rather than replace, available options. Existing voting channels are kept active, with their corresponding economic obligations, while new mechanisms require appropriate financial support. However, some SVA solutions may be applied as total or partial replacements of conventional voting, with savings being made on electoral administration and other budget lines.

Staggered voting may be the most obvious case since the SVA itself is conceived to address economic and logistical concerns about

delivering elections nationwide at the same time. It would be much more expensive, and not affordable for some countries. All other types of advanced voting (e.g. postal, online, early) might result in savings, depending on the SVA turnout. Should postal voting, for instance, entirely or partially replace conventional voting, as was the case in some US states and in other countries during the Covid-19 pandemic, significant savings could be envisaged as postal voting should be cheaper than fully implementing conventional voting. If advanced SVAs and conventional voting are implemented simultaneously, savings might be more difficult to achieve as conventional voting will always have to be available for those not using SVAs. However, a high SVA turnout could lead to reasonable accommodations (e.g. reduction of polling stations) of conventional voting logistics, with corresponding savings.

Should postal voting, for instance, entirely or partially replace conventional voting significant savings could be envisaged as postal voting should be cheaper than fully implementing conventional voting.

Great variation in costs

The concept of an SVA encompasses a range of procedures that differ widely in terms of implementation requirements and corresponding costs: a single and uniform approach is not feasible.

On one hand, some SVAs, such as assisted, proxy and provisional voting, do not entail significant economic burdens. They all require certain additional expenses, but they won't have a big impact on the overall electoral budget. Assisted voting, for instance, would need support in terms of voter education and polling staff training, with specific actions targeting how to serve voters who may need assistance, but both initiatives could be embedded within the actions normally undertaken in voter education and training programmes. Proxy and tendered ballots share the same approach. Besides voter education and training, they would also need particular administrative procedures (e.g. storage and validation of provisional ballots, acceptance of proxy voting requests), but in general terms these new steps will not put excessive pressure on electoral logistics, unless, for exceptional reasons, these SVAs end up being used by a large number of voters—which would also be an indicator that some aspects of the whole procedure would have to be reconsidered.

On the other hand, other SVAs cannot be fully implemented without additional pressure on economic, logistic and human resources. Postal, early and online voting, mobile ballot boxes, special polling

stations (both domestic and abroad), and multi-day elections belong to this category but still with significant differences in terms of budgetary support as well as the type of actions to be developed (see below). For instance, domestic special polling stations for early voting may result in costs on the same scale as conventional voting, depending on the number of sites and the level of accessibility intended. Provision of voting options from abroad may be expensive, in particular polling stations in embassies or other dedicated premises that are rented or refurbished accordingly. Some forms of postal voting can involve significant costs, such as the Mexican procedure for voting from abroad, where private packaging companies are used for collection and delivery (Beltrán Miranda 2020: 1169). Conversely, domestic postal voting with ordinary state services or mobile ballot boxes, such as homebound voting during the election day, may be implemented with lower overall costs.

Great variation in expenses

As noted above, variations depend on the type of costs to cover, and not only on the total budgetary figures to consider. SVAs encompass very different voting mechanisms, and the types of processes to be implemented therefore differ greatly as well. While online voting will require highly specialized IT management, mobile ballot boxes will involve traditional logistics and coordination of human resources. Likewise, multi-day elections will repeat conventional voting more than once, with certain added features in terms of security and storage of sensitive electoral material.

Box 6.1. **Australian Electoral Commission (2021) and out-of-country voting**

'Australia has a history of providing i[t]s citizens abroad with an opportunity to participate in democratic elections that goes back over 100 years. While initially included 'by default', as Australia offered the option for all citizens to vote by post, the notion of every citizen's right to participate underpins OCV [out-of-country] efforts today. Australia has in many ways served as a regional—or even global—pioneer when it comes to electoral management. Numerous lessons have emerged from the work carried out by Australia's federal and subnational EMBs when it comes to the implementation of OCV. Pilot projects have been rolled out at the subnational level to apply technology to extend voting modalities in an effort to increase turnout while also controlling costs.' (Aman and Bakken 2021: 39)

In general terms, extra expenses needed to implement an SVA could be categorized as follows: human resources, training activities, logistics, voter education, and stakeholder involvement. Firstly, new staff will need to be hired to complete all tasks related to SVAs. Moreover, special EMB units may be necessary. The actual number and required skills will depend greatly on the type of SVA to be implemented. Postal services will need temporary staff support, special polling stations may be staffed replicating criteria used during election day, mobile and assisted voting could require extra polling staff to pay attention to these specific needs and mechanisms, while online voting may require the participation of computer engineers and IT auditors.

Extra expenses needed to implement an SVA could be categorized as follows: human resources, training activities, logistics, voter education, and stakeholder involvement.

Secondly, both new and existing staff will need to be trained so that they are fully aware of the requirements of SVAs. Likewise, voters will need specific voter education campaigns to raise awareness that new procedures exist. Targeted actions will focus on groups where SVAs could demonstrate their actual usefulness.

Thirdly, new logistics will be required to prepare for and support the implementation of SVAs. These budget lines will include premises, new material and supplies, transportation, travel costs (particularly for polling stations abroad), security or storage of sensitive material, to name a few. In terms of calendar, the length of time that SVAs will be deployed will certainly have a direct economic impact too. This would clearly be the case, for instance, for special polling stations.

Finally, consideration should be given to costs that stakeholders will have to bear. Observer organizations and party agents will have to adapt their strategies to new voting procedures, which in certain cases will entail important additional costs, as is the case for in-person overseas voting. Voters could be considered as a category of stakeholders who will have to bear certain costs to effectively take part in their national elections. While some countries promote free postage of ballots, other countries do not accept such exemption. Voters may also have to dedicate time and money to submit the relevant applications (e.g. for proxy and mobile voting) and may need to travel long distances to cast a ballot abroad.

The challenges of maintaining SVAs in place

Efficiency and effectiveness have already been highlighted as criteria to be considered when implementing SVAs, but consideration should also be given to maintainability, that is, the capability to keep active certain electoral services, such as SVAs. This introduces a different set of specific challenges.

Prior estimations of SVA costs may not be easy to achieve, at least for certain mechanisms, and particularly for first-time implementation. It is advisable not to underestimate these costs as this may lead to reduced capabilities and difficulties in fulfilling voter requests. Standby capacity and flexibility is initially often required, but makes early sustainability assessment difficult.

Decision makers would need to consider not only the cost–benefit analysis of an SVA over time, but whether it is potentially sustainable with primarily domestic resources.

While it is rather easy to expand the portfolio of SVAs, reversing implementation decisions may be much more complicated as it would be reducing electoral inclusivity. SVAs may be seen as new rights that have been gained—new democratic achievements that should not be renounced, even if unaffordable financial burdens exist. Moreover, this would become even more challenging in instances where states have received temporary international financial support from donors to implement SVAs. This may happen in cases where international players seek to support a post-conflict state attempting to establish democracy. For all SVAs, decision makers would need to consider not only the cost–benefit analysis of an SVA over time, but whether it is potentially sustainable with primarily domestic resources.

Country examples

Three case examples have been chosen to illustrate how economic aspects could impact SVA implementation. While postal voting in Australia may explain why sometimes SVAs can be even cheaper than conventional voting, the Spanish case reflects what happens when postal voting is implemented together with conventional voting. Finally, the examples of Estonia and other countries will show how different SVA deployments could be from one type to another, as with online voting in this particular case.

Australia: Savings with postal voting

Australia accepts a full replacement of conventional voting by postal procedures. This innovative scenario takes place for referendums and all or most local elections. The costs were significantly less (less than half) than those of national elections held by a combination of the conventional voting method and SVAs (Wally 2020: 10, 17). However, these comparisons do not reflect the initial investments in postal voting infrastructure, which was already well developed. These savings would also rely on an updated voter register, in particular an accurate address database, as both envelopes returned due to wrong addresses and registering mail to ensure a correct delivery will entail extra costs and therefore dilute any benefits coming from savings (Wally 2020: 10). In more general terms, postal voting provides a flexibility that could be helpful for elections in difficult-to-reach areas, where logistics of a normal election setting would be extremely expensive (Wally 2020: 15).

Spain: Growing costs of postal voting

Implementing postal voting in conjunction with other mechanisms does not necessarily result in savings. Moreover, depending on how it is implemented, costs may vary and fluctuate greatly. Spain is a good example, as both the financial and legal frameworks changed greatly over the years (UNDP and IFES 2005: 25–26):

> Postal voting within country and abroad is becoming increasingly popular, yet is quite expensive. In Spain, for example, the cost per registered voter grew from $2.1 in 1996 to $4.1 in 2004. While reporting and accounting factors may explain a large part of the growth, there is still considerable room for actual cost increases, which can be explained by significant changes in the management of the electoral process. In any case, cost increases have been much larger than the 10 percent increase in the number of eligible voters from 31.4 million in 1996 to 34.5 million in 2004. Some of the discrepancy is related to the change in Spain's currency from the peseta to the euro as well as the fall in the US dollar's value against the euro over the past couple of years. These external factors are responsible for the estimate that at least 25 percent of the current cost per registered voter should be considered 'inflated' by mere

accounting factors; taking this into consideration, the actual 2004 cost is $3 per registered voter.

Other factors are also responsible for the higher costs in 2004 compared with 1996. The major significant changes in the management of elections in Spain over those eight years included:

- A dramatic increase in the number of registered voters abroad for whom electoral material was mailed and processed (1.1 million people), plus other mail services to normal voters. Moreover, information facilities to electors in and outside the country were improved (i.e., by providing online information). This explains why the largest single line item in the most recent election budget was postal and telecommunications expenses, which accounted for over 21 percent of the entire budget;
- The increasing volume of printing and mailing by the Office of the Voter Registry accounted for approximately 13 percent of the electoral budget, the largest growth item in the budget. This increase resulted from higher levels of external voting; and
- Rapid transmission of preliminary results on election night. This activity has been improving technologically over time and now accounts for almost 10 percent of the total budget.

This excerpt comments on the evolution that took place between 1996 and 2004. However, further updates are necessary since important modifications were carried out at a later stage, such as the one requiring explicit request of postal ballots for every election.

Estonia and other countries: Online voting, new (non-traditional) costs for an innovative voting procedure

As noted above, business models have been applied to the Estonian electoral procedures so that costs could be calculated for both SVAs and conventional voting. Special attention has been paid to online voting, which implementation was pioneered by Estonia and a handful of other countries, and to a comparative approach that looks

at cost inputs from different voting procedures in place. Moreover, some insights will be given on the nature of the cost that online voting entails. The study shows that Internet voting is the least costly form of voting per ballot in Estonia (see Table 6.1 for statistics of costs per voter).

Table 6.1. **Cost per voter in EUR with a range estimate of 20 per cent in the 2019 parliamentary elections in Estonia**

Voting channel	Min. cost per voter	Max. cost per voter
ORDINARY VOTING DISTRICT COMMITTEE		
Advance voting	16.88	18.16
Election day voting	4.32	4.46
Home voting	14.40	15.51
COUNTY CENTERS COMMITTEE		
Early voting	9.25	9.56
Advance voting	8.58	8.99
Election day voting	6.22	6.24
Home voting	16.01	16.82
INTERNET VOTING		
Internet voting	3.10	3.39
VOTING FROM ABROAD		
Voting in diplomatic missions	28.32	30.39
Postal voting	110.09	126.39

Source: Redrawn from Krivonosova, I., Duenas-Cid, D. and Krimmer, R., 'Reviewing the Costs of Multichannel Elections: Estonian Parliamentary Elections 2019', Fifth International Joint Conference in Electronic Voting, E-Vote-ID 2020, Proceedings, Tallinn: TalTech Press, p. 357, <https://www.academia.edu/44254929/Reviewing_the_Costs_of_Multichannel_Elections_Estonian_Parliamentary_Elections_2019>, accessed 23 November 2022.

However, where online voting is made available, but only small numbers of voters take advantage of this SVA, the estimated cost per voter is likely to be higher. In that instance, the significant fixed cost of establishing online voting, coupled with its relative lack of use, makes it a costly endeavour. Each jurisdiction's EMB and other leaders would have to determine whether the start-up costs of online voting would be prohibitive and who might pay these costs, and whether an online SVA once implemented would be used widely enough to be cost effective.

In this regard, it is worth highlighting that online voting involves a range of expenses that are not normally required with other voting procedures, which makes any assessment of costs linked to this type of SVA more difficult. Similar reasoning would apply to other voting technologies, such as biometric applications for the voter's authentication, or results transmission system. IT certifications and audits, hiring specialized staff, specific procurement criteria with a limited range of IT suppliers, or specific risk assessment strategies, to name a few, would be financial aspects to be considered when implementing online voting.

The two examples that follow briefly demonstrate how the implementation of online voting is often assessed by the relevant electoral authorities, in this case in Bancroft, Ontario, Canada in 2018, and in New Zealand in 2019, respectively.

> The cost for vote by mail method for the 2014 Election was approximately 3.00 per vote, plus Canada Post costs for mailing the kit AND returning the kit. In addition, $1100 was spent on extra staff on Election Day plus lieu time for full-time staff members. Staff are unable to quantify the hours spent by staff on ballot-related activities, but it was substantial in the weeks leading up to Election Day.
>
> Cost for Internet/telephone voting is estimated to be less. Cost is approximately $2.00 per vote, plus Canada Post costs to mail out the vote packages. There will be savings incurred here as there are no return-postage costs as there are with Vote By Mail. As the municipality and voters become more familiar with internet voting, there is potential for further cost

> reductions and efficiencies utilizing Internet/telephone voting in subsequent elections.
> (Sauter 2017: 7–8)

> The appeal of an online voting system, from a cost perspective, is that while upfront costs of developing and purchasing the online software are high (the fixed costs), the costs thereafter are low. For each new voter, the increase in costs (the variable costs) are minimal. Furthermore, a portion of the fixed costs could be spread between multiple councils, if they were using the same provider, thus reducing the cost to each territorial authority … Yet the trial was dropped ostensibly for cost reasons … To ensure everyone who wants to vote can easily vote means a paper-based voting system will need to run in parallel with online voting. This will increase costs. To embark on an online voting project in the hope of lowering costs is puzzling.
> (Molineaux 2019: 22)

For a wider approach on Ontario online voting projects, see Essex, Cardillo and Akinyokun (2019).

Summary

- With some exceptions (e.g. staggered voting), SVAs entail more costly elections when they complement conventional voting.

- Although some solid initial studies were carried out, there are still no consolidated methodologies for establishing cost per SVA, namely with comparative cross-SVAs and cross-countries viewpoints.

- Costs vary depending on the SVA. Large differences exist due to the nature of each SVA and their relevant operational implications.

6.5. **VOTING AS AN EXPERIENCE**

The rituals and rhythms of voting

Elections are nothing if not vast logistical exercises. Electoral democracy seeks to further ideals such as political equality, liberty, deliberation and integrity. Balancing these multiple purposes, within constraints of capacity and resources, means that electoral law and administrators alike tend to focus on issues such as turnout, practicality and cost, as seen in earlier sections of this Handbook.

Being seminal public events, elections also have an experiential dimension (Coleman 2013). So they have an 'affective' aspect for participants, as well as being 'effective' in the sense of declaring the outcomes of particular contested elections (Hirschbein 2009). Particular types of SVAs, especially voting early in person or by post, present a different experience, given the space and time in which they occur, from conventional in-person voting on election day at the end of the campaign period.

Voting, the heart of the electoral process, always occurs in a place and time. The place may be a particular kind of physical space (e.g. a polling station, compared to completing a postal ballot at home and delivering it to a postbox). Or it may be partly in cyberspace (if voting occurs via the Internet).

The temporal element of voting is also inescapable (Thompson 2004). Most obviously, it involves the length of time it takes, say, to travel to the polls and queue, compared to the time it takes to apply for a postal ballot, to await its delivery, and to complete and return it. There is also a wider temporal element. That is, how and when different voting channels fit into the other stages—the rhythmical cycle—of an election taken as a whole (Orr 2015).

Beyond the experiences individual voters have through the ritual of voting, often repeated at regular intervals across their lives, there is also an inescapable—and potentially important—symbolic element. How and when voting occurs will in part shape the way voters and the wider public perceive an electoral event. Elections, ultimately, are a crucial way of constituting a polity. From a bird's eye view, how they are conducted offers an 'affective … performance of who the people

are' (Coleman 2013: viii). Wider forces than choices among SVAs or conventional voting will primarily shape whether an election is quiet or colourful, peacefully contested or at risk of violence. However, how voting is carried out, including the avenues available to cast ballots, can also play a role in whether elections are experienced as more or less public or private affairs, as solemn or playful occasions, and even as gameable or trustworthy events.

This section of the Handbook will give a brief overview of these considerations, as they relate to SVAs compared to the conventional method of election-day, in-person balloting. Some of the concepts and suggestions may seem less measurable than more tangible aspects such as levels of turnout and cost. Yet the experiential dimension is a practical consideration, and not merely a theoretical one.

It is not suggested that these considerations should override more fundamental democratic principles. For instance, maximizing participation via turnout is more essential than preserving election day for nostalgic reasons. On the other hand, there is a risk of 'throwing the baby out with the bathwater'. That is, it may be possible to have too much 'convenience' in voting, if the end point is not just stretched electoral administration and resources but a dilution of election day as the culmination of a process.

Voting as a communal experience

The ballot is at once a very public act—at the heart of politics and representation—and, since the secret ballot, a private one—an expression of individual conscience or will. In centuries past, when voting was done by voice, in front of a polling clerk, elections were radically different events. The risks of bribery and intimidation were ever-present, alongside a sort of open electoral tribalism. To this day, besides mechanisms to enforce secrecy of the ballot, many countries also try to prohibit wagering on elections, or to maintain 'dry laws' (or *ley seca*), to limit the sale of alcohol on election day.

The secret ballot assumes literacy. As noted earlier, one appeal of in-person voting was the ability to not only maximize secrecy, but also provide impartial electoral assistance. Technology may also provide workarounds for assistance. Above all, the focus on a

singular traditional 'election day' married one bureaucratic desire with one symbolic aim. Resources could be marshalled with a clear administrative focus, into a set number of polling stations and over a singular spread of hours. Constraints of resources and terrain, of course, can lead to different polling days in different regions—as occurs, say, at Indian and Papua New Guinean national elections.

The symbolic aim is simply that the electoral event, whether at national or regional level, has a clear culmination. An election day (rather than a 'voting period') can be a genuinely communal experience if most electors attend designated public venues to engage in the act of voting. Those venues may, if election day is on a weekend, be obvious community spaces such as school or town halls. However, they may also be more suburban or commercialized spaces, as in the practice in parts of the US to hire residents' garages or spaces in public malls. For reasons of integrity, some systems encourage or even require electors to vote in 'precincts'—that is at a specific local polling station. While that may seem inflexible, it may also increase the sense of communality in voting.

Attendance at such polling places may, depending on the legal regime covering election day and polling stations, involve being exposed to final attempts by activists to solicit votes.

At the level of the individual experience, in-person voting presents a more controllable environment for voting, despite its physical demands on the elector. The experience of Internet voting (which permits voting anywhere, anytime), of delegating a proxy, or of voting by post may feel like a privatized transaction for the elector concerned.

Depending on the balloting technology used, in-person voting may engender a sense of satisfaction and even trust, in the act of casting a vote directly on an official machine (ideally with paper receipt) or in the tradition of depositing an actual ballot paper into a secured ballot box. In France, for instance, the principle of transparency is taken literally. *Urnes électorales* (ballot boxes) must be made of see-through material (French Electoral Code n.d.). The rise in both postal and electronic voting, which predated, but has been accelerated by, the Covid-19 pandemic, has led to a backlash in parts of the world from

those who, fairly or not, allege that the experience of in-person voting is essential to both electoral integrity and its appearance.

Voting on election day may also present a benefit relatable to the democratic ideals of deliberation and participation. Assuming electors pay heed to debates across a campaign period, then there is a natural desire—especially on the part of parties and activists—to limit early voting to periods close to election day. (The assumption behind this can, however, be overstated, depending on the level of stability in the party system concerned (Gardner 2009).)

Various forms of SVAs, as earlier sections noted, offer enhanced access to the ballot through a diversity of voting options. However, this may also contribute to a dilution of the focus of both electoral administration and public attention, as the voting period elongates and voting options and 'spaces' expand. There is thus a debate in societies like Australia, where 'pre-polling' (whether in person at early voting centres or via postal voting) now exceeds in-person, election-day voting, about the balance between 'convenience' and the importance of election day (Orr 2014). As one Scottish author put it, 'the idea that voting should be a minimal inconvenience overlooks the civic nature of the act of voting' (Lardy 2003).

No single method of organizing polling should be valorized, however. The experiential element of voting is embedded within political and socio-economic cultures and contexts (Faucher and Hay 2015). Where violence is a real threat, voting in public on election day may be a fearful experience compared to voting by post or online. Voting in the presence of police or security forces, or in secure but austere government facilities, will be less pleasant than voting at a school or public hall in more sedate times.

Where violence is a real threat, voting in public on election day may be a fearful experience compared to voting by post or online.

It should be remembered that not all SVAs cut across the conventional experience of in-person, election-day voting. As noted in earlier sections, provisional or tendered votes are typically cast in polling stations on election day, they just involve an extra rigmarole. Such paperwork, also a feature of postal voting, can, if kept manageable, even serve a signalling function: that voting is a significant, even

solemn, act.[13] Conversely, the extra time it takes to process such ballots may delay results. In very close elections, that may not just elongate the ritual of election night counting, it may create an uncertain lull and heighten the risk of contestation of results.

Elections as public events

Outside war time, and especially in plural or secular societies, elections are likely to be the one occasion where a society comes together as a whole.

Outside war time, and especially in plural or secular societies, elections are likely to be the one occasion where a society comes together as a whole. That coming together may be more or less inclusive and democratic, more or less fragmentary or unifying, more or less peaceful or antagonistic, but it is above all a great public moment.

Elections as event are seasonal, given the cycle of general elections. And each has its own internal rhythm of candidate nominations, dates for voting, dates for declaring results, and so on.

As discussed above, SVAs may elongate the election day into an election period. This has varied effects on democratic values like participation (ideally raising turnout) and deliberation. One underappreciated feature of a shift from an election 'day' to an election 'period' is a shift in the way that society, especially through the media, may come to see the event.

Accentuating polling day is not just an approach in which the election builds to a singular culmination. It is also one where media attention and resources, and party GOTV (or 'get-out-the-vote') efforts are focused. Not only do individual electors see themselves as *part* of a shared activity—a communal horde physically assembling to vote—but the media can also capture and reflect that back to society. It typically does that through well-established tropes, like images of party leaders voting in the morning and encouraging their supporters to do likewise, or footage of masses of people gathering to vote. These images then emblemize the idea of an election as the people coming together to form the polity. In-person polling, especially focused on an election day, may also be an important avenue of participation for party and other activists. As a British candidate put it, '[t]here is not much point joining up if you are not going to see any action' (Wheeler 2004).

13 There is a similar trade-off with voter ID between ease, accessibility and voting as a right, and signalling the significance of voting as a public function.

Different SVAs also affect the public event that is the unfolding of the count. Earlier in this chapter, the challenge Internet voting poses to the scrutiny of ballots was noted. In theory, a fully e-voting system can also generate an instant avalanche of results, at the press of a button. Paper-based ballots take longer to count, heightening the tension of election nights. This in turn is part of the traditional theatre of the climax of an election as an event. Candidates and leaders may be humanized, in the public mind, by being shown enduring that tension, whether with humility, grace or hubris.

Pre-polling, and especially postal voting, as also noted earlier, poses both opportunities and challenges to the count. When a large proportion of turnout is by pre-polling, the count is likely to be delayed, unless the law permits counting of such votes prior to the close of polling. This is a risky practice, given the likelihood of leaked results, which may not be representative and affect the political narrative and turnout on election day itself. Postal and other 'declaration' voting envelopes or paperwork can be processed prior to the close of polling, but any system with large numbers of postal votes must expect delays in close results. Especially where to allow for delays in mail delivery, or to allow postal voters to vote as close to the end of the election period as possible, postal votes are accepted for a period after polling day.

Voting in person need not of course be on election day. It can take place by pre-polling at an early voting centre, a form of SVA. One element of voting in person worth remembering is that it necessarily involves some interaction with electoral staff. Those staff are typically ordinary citizens, drawn from the surrounding community, playing a visible part in delivering electoral services. In this way, the public as a whole engages with part of itself, the public service.

Other forms of SVAs may involve ordinary citizens as staff members more than others. Compare processing postal votes, a very manual activity, to Internet voting, where high-level technical expertise is more important. If the experience of those ordinary staff is that they understand the importance of their work and that it is not too stressful, their experience can make them 'allies' of EMBs and place their trust in them.

Summary

- Whatever forms of voting are employed may affect both the ritual and rhythm of the electoral process as well as the public perception and meaning of the election as an event.
- Although not always easy to measure, they are nonetheless real.
- While they overlap with more pragmatic issues such as turnout and trust, they are also deserving of consideration in their own right.

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Chapter 7

SVAS IN ACTION

7.1. PLANNING AND IMPLEMENTATION

Competent and efficient election administration is a major component of the success of any election. Administration of SVAs may differ from conventional voting in procedures, materials, equipment, and the requisite knowledge and skills required from polling staff. Such differences may be relatively minor: in the case of early voting or multi-day voting the same voting procedures are essentially performed at a different time, while in the case of mobile voting and special polling stations, at a different location. However, other SVAs, such as postal voting and online voting, require developing entirely new election administration capacities.

While sound planning is crucial to any successful electoral process, it takes on even more importance with respect to SVAs.

While sound planning is crucial to any successful electoral process, it takes on even more importance with respect to SVAs. Planning for SVAs may be more challenging than conventional voting due to more unknowns: from the number of voters who will make use of the particular voting method to the time it will take to administer specific procedures, such as processing postal votes before they may be counted. Other challenges that may need to be overcome are political expediency and, as recent events have shown, coping with extraordinary circumstances, such as a global pandemic.

SVAs are introduced to achieve certain policy objectives (such as more effective enfranchisement) and often involve trade-offs in terms of costs, integrity risks, and other relevant considerations.

Knowledge about the electoral impact of specific SVAs contributes to better-informed decision making regarding introduction or reform of particular arrangements. It may also change attitudes to SVAs among the voters and political actors. To the extent possible, electoral impact should be assessed in the process of initial considerations and planning as well as during post-election evaluations, and similar analyses conducted to identify lessons learned and areas for improvement. Targeted impact assessments should also be undertaken when SVAs are piloted on a limited scale, such as with online voting experiments mentioned earlier. Assessing the electoral impact of an SVA calls for especially close examination of areas in which the SVA differs from the conventional process, and the effects of these differences on particular components of the election and its outcomes.

It is advisable to pilot a new SVA before its introduction on a significant scale. Such experiments provide invaluable information for the planning process and give insights that cannot be obtained otherwise. Pilots of electronic voting, including online, have helped build stakeholders' trust in the new technology in some countries and have led others to change their plans or abandon them altogether. Countries which have some experience with an SVA find it easier to scale up its use if needed. For example, prior experience with postal voting from abroad in the Netherlands was used to inform planning for its extension to elderly domestic voters in the 2021 parliamentary elections.

It is advisable to pilot a new SVA before its introduction on a significant scale.

Where no prior experience is available, planning for SVAs needs to rely on best estimates. Such estimates may be obtained from informed calculations as well as by testing specific materials or processes. For instance, ballot design for postal voting may be tested in small groups of voters for usability and potentially unclear instructions (Center for Civic Design n.d.). Procedures such as processing and counting postal ballots may be tested in time-series using mock materials, measuring, for example, how many ballots may be processed by a team of poll workers in an hour. Such tests give a more accurate estimate of the human resources necessary to accomplish specific procedures in a timely manner, which in turn enables the EMB to put together a more accurate electoral budget.

Administration of SVAs poses personnel needs that may differ from conventional voting in several ways. In principle, some SVAs do not require additional staff, for example, proxy voting, assisted voting, and tendered ballots. However, most SVAs will require additional polling staff. For postal voting, early voting and multi-day voting, polling staff are needed for a longer period of time. In the case of polling stations abroad, it should be explored whether the necessary staff are available locally or whether they need to be sent from the home country, which adds to the costs of election administration. Importantly, polling staff will also need different knowledge and skills than they do for conventional voting. For SVAs such as proxy voting, mobile voting, assisted voting, and tendered ballots, all polling staff need to be trained in additional procedures they may be called upon to perform. Postal voting allows dedicating staff to specialized tasks—such as sending out voting packets or processing returned ballots—so that not all staff need to be trained in all procedures. Online voting requires staff with specialized IT knowledge.

Another difference in administering SVAs is the use of different materials and equipment. Postal voting, especially on a large scale, may be facilitated by automated processing of outbound and inbound mail. Unstaffed drop-off locations for postal ballots need secure and monitored sites. Matching voter signatures submitted with the postal ballot may be computerized, and online voting will fully rely on IT devices. Investment into such technologies and equipment should take into account, in addition to other factors such as security, their cost over time, including for maintenance and repairs, to enable accurate cost estimates and comparisons. As with other voting technologies, the EMB will ultimately bear responsibility for successes and shortcomings in the electoral process.

The choice and purchase of equipment for SVAs, especially IT-related, presents the same issues as the purchase of equipment for any other aspect of electoral operation and management. Vendor interests are not identical to EMB interests. The writing of tender documents and the assessment of offers need to address much more than the suitability of the equipment offered and the prices quoted. Initial and ongoing training needs, maintenance arrangements and the possibility of being locked into renewals or upgrades without further evaluation are all considerations. Also relevant is the potential

approach and capability of a supplier to their communications and public relations—the public response to media investigations of apparent problems being every bit as important to the credibility of an election as the substantive ability to explain and solve technicalities.

Beyond IT equipment, SVAs will bring on board a new set of materials that will be needed for their application. Special envelopes, specific voter lists, or mobile equipment will be needed—there could be even more requirements if considering all SVAs and their specifics.

On the citizen's side of the SVA, planning involves provision of adequate voter information. This is normally expected and legally required from EMBs, but they may find it effective to work with other actors, in both the governmental and non-governmental sectors, especially when it comes to reaching out to specific groups of voters, such as persons with disabilities. Voter information campaigns may be planned well in advance of the election, as soon as the outlines of the SVA procedures are clear, but if the campaign is carried out early in the election period voters may need a 'refresher' closer to the dates when they are expected to use the SVA. Different channels may be more effective for targeting different voter groups, such as social media for younger voters and television spots for older groups. Creative ways should be explored for reaching voters who do not have access to mainstream media, such as voters abroad. Designers of voter information campaigns may wish to test the effectiveness of their voter education materials on small groups of voters and collect feedback, before embarking on a wider campaign.

One distinctive feature of SVA administration is the handling of applications. Many SVAs are made available to voters at their request, so election administration must maintain sufficient channels through which such requests may be submitted. Convenience to voters is important, as is reliability. If requests are not submitted in person, sufficient safeguards should be included to confirm the identity of the voter. Application channels should be made accessible and tailored to voters' communications requirements. Regardless of how the request is submitted, it is advisable to provide a confirmation to the voter that the application is received and to notify them if the application needs to be completed (e.g. by submission of additional documents) and when the decision may be expected. Application and

decision-making timeframes should be such as to minimize the risk of the voter being disenfranchised if their request for an SVA cannot be met. For example, when an application to be served with a mobile ballot box is turned down on election day due to insufficient capacity, the voter who is unable to reach the polling station may have no other means of voting.

Use of SVAs should generally be avoided in circumstances where their successful implementation is in serious doubt, even though the EMB may come under political pressure to implement them.

These considerations underline the importance of advance planning to the greatest extent possible. In ordinary circumstances, SVAs can be rolled out gradually, over several electoral cycles. Extraordinary circumstances—such as major political upheavals or a recent pandemic—may present electoral planners with uncomfortable choices, as opportunities for proper planning may be curtailed. Use of SVAs should generally be avoided in circumstances where their successful implementation is in serious doubt, even though the EMB may come under political pressure to implement them. For instance, in Poland's 2020 presidential election, the ruling party came up with the initiative to conduct the poll solely by means of postal voting some two months before the election date and tried to sideline the EMB, which did not embrace the idea of such rapid scaling up of postal voting, in absence of much prior experience and organizational capacities. The plan was eventually dropped, and postal voting was made optional, alongside conventional voting (Vashchanka 2020). On the other hand, election officials in Bavaria were able to handle an all-postal voting in the second round of local elections in March 2020, in large measure due to extensive prior experience with this SVA in Germany (Wagner 2020).

Country example: Poland

In early April 2020, during the Covid-19 pandemic, Poland's ruling Law and Justice party (PiS) unveiled legislative proposals to hold a presidential election scheduled for 10 May 2020 solely by postal voting (Vashchanka 2020). Postal voting packets were to be sent to all registered voters, who would return their ballots to designated collection boxes on election day (only). The postal service would be collecting returned ballots throughout the day and delivering them to the precinct election commissions. The draft postal voting bill, introduced by the government on 6 April, went through all three readings in the lower house of the parliament on the same day. Opposition parties accused PiS of disregarding public health and

pursuing its narrow political interests. The upper house (Senat) made it clear that they would use all the legally permitted time (30 days) to discuss the postal voting bill. This meant that this bill could realistically become law only days before the election date.

Knowing or anticipating that the National Election Commission (NEC) would not be able to carry out its postal voting plan until the requisite law was in force, PiS sought to bypass the NEC in preparation for the election on 10 May. An amendment adopted with anti-crisis legislation removed the powers to approve ballot design and oversee the printing of ballots from the NEC. Another provision authorized voter registration data to be handed over to the postal service. The draft postal voting bill gave the authority to print ballots and conduct other preparations to the Minister of State Assets. The Minister did not wait for these powers to be legally conferred and proceeded with the printing of ballots and preparing voting packets (Vashchanka 2020).

As Covid-19 cases continued to rise and the lockdown continued in April, the government's plans for the May election came under mounting criticism at home and abroad. Several candidates threatened to boycott an all-postal election. Mayors of the municipalities controlled by opposition parties questioned the authority of the postal service to receive voter lists and refused to hand them over. District election commissions, which are composed of current or retired judges, saw dozens of withdrawals. On 30 April the NEC Chair indicated that holding any election on 10 May was unrealistic (Vashchanka 2020).

A political compromise was finally reached, which saw the postponement of the election until 28 June 2020 and provided for postal voting as an optional voting channel, available to any voter on application. According to the NEC, some 185,000 postal ballots were mailed to voters in the country (of which around 177,500 were returned) and some 343,000 ballots were mailed to voters abroad (of which about 285,000 were returned). The total number of eligible voters exceeded 30.2 million (Vashchanka 2020).

Country example: Bavaria, Germany

Bavaria, a federal state (*Land*) of Germany, held local elections during the Covid-19 pandemic in March 2020. In the first round, voting took place under relatively normal circumstances. Voting methods included in-person voting at polling stations (with certain health precautions) and more flexible postal voting. Postal voting could be requested by any voter until the last moment without giving any reason, a regulation intended to ensure that even those in quarantine shortly before the election would be able to participate. During the run-off, the pandemic reached its climax and state officials decided to hold an all-postal voting election (Wagner 2020).

Immediately after the first round, the Ministry of Interior informed the public of how elections would be adapted to the new circumstances via all-postal voting. The communication on the exceptional voting procedure, dated 16 March 2020, was disseminated by various media channels, both online and offline.

Election administrators had a short—but manageable—timeframe in which to prepare. To prevent potential shortages of official ballot papers and envelopes, the Ministry outlined that, in exceptional cases, it would be possible to deviate from the legally prescribed samples. This time, ballot papers were automatically sent to all voters in the districts with run-offs scheduled—279 municipalities, 15 large district towns, 16 independent towns and 18 administrative districts. A special agreement between the Bavarian Ministry of Interior and Deutsche Post (the German postal operator) ensured that completed ballot papers would arrive at counting centres in relevant towns and municipalities before 18:00 on election day, 29 March (a Sunday). To enable this, voters could use approximately 19,600 mailboxes in Bavaria until 18:00 the previous evening. In addition to using the postal service, voters also had the option to personally deliver their postal votes at electoral offices on election day itself (Wagner 2020).

As the electoral management was decentralized, regulations on how, when and where to deliver the votes varied. Local and regional newspapers and the websites of the municipalities informed voters about the new regulations. In addition, municipalities established telephone hotlines and provided contact details for open questions and handling any irregularities. In Munich, for example, in the event

that ballot papers were not delivered, voters could vote directly at dedicated contact points until 18:00 on election day. Public information on the exceptional procedures also drew attention to the importance of complying with existing counting regulations for safeguarding voting secrecy: counting was only allowed from exactly 18:00, the official closing time for voting in Germany. Considering restrictions on freedom of movement, another communication issued on 26 March 2020 outlined that participation in the electoral process was a valid reason for leaving one's home (Wagner 2020).

The distribution of postal ballots generally went smoothly except in some cities, such as Augsburg and Nuremberg, where voters complained about not having received them on time. For such eventualities, provision was made for voters to pick up replacement ballot papers at the polling stations directly.

The shift from partial postal voting to all-postal voting in the second round was undertaken within a long-standing tradition of postal voting and infrastructure already in place in Germany. Postal voting was first introduced in 1957 and has since been used for every election. An amendment to the regulation of postal voting was passed in 2008, which provided more flexibility, as voters did not have to provide any reason to make use of it. In recent years, postal voting has also gained more popularity. It was used by 28 per cent of voters during the federal elections in 2017 (Wagner 2020).

Summary

- Administration of SVAs may differ from conventional voting in procedures, materials, equipment, and the requisite knowledge and skills required from polling staff. Some SVAs require developing entirely new election administration capacities.

- Planning for SVAs may be more challenging if there is no prior experience or accurate assessments of SVA use. Piloting SVAs is advisable before their use on a wider scale, to enable better planning and identify potential weak links.

- It is important that EMBs adopt a comprehensive approach to procurement and relationships with suppliers that fully recognizes

the difference between the interests of electoral administration and the interests of vendors.

- Voter information campaigns should be planned in advance but need to be carried out sufficiently close to the voting day(s).
- If voters need to apply to use an SVA, decision timeframes should be such as to leave voters an opportunity to use another voting channel.

7.2. CAMPAIGN AND ELECTION DAY

Electoral campaigns are affected by SVAs, and particularly by those arrangements that allow votes to be cast well in advance of election day.

As SVAs have grown in use, they have compelled political parties and candidates to adjust their strategies in significant ways. Electoral campaigns are affected by SVAs, and particularly by those arrangements that allow votes to be cast well in advance of election day—such as early voting, postal voting, and online voting. Staggered polling could have similar effects. The impact of such arrangements on electoral campaigns should be studied to inform decision making and understand the trade-offs involved. For example, one study in Australia found that early voters have less trust in politics and are less likely to participate in elections. Early voting was also found to be more advantageous for certain political parties (McAllister and Muller 2018). Another study in the US found that the volume and content of campaign news coverage was significantly influenced by early voting (Dunaway and Stein 2013).

Voting before election day

Many SVAs enable voters to cast their ballots well before election day. Early or advance in-person voting often enables voters to cast a ballot several days before an election. Online voting may do so as well. Postal voting effectively requires a voter to cast their ballot several days in advance (and for voters abroad, as early as several weeks in advance) if the voter intends to send their ballot back to the EMB by mail. Significant percentages of voters sending or casting their ballots before election day can have a notable effect on campaign activities and strategy. This fact may pose certain challenges to electoral campaigners.

First, a significant number of ballots cast before election day may diminish the importance of traditional, customary milestones that have become fixtures of the informal electoral timeline. The final televised debate between candidates, election eve or other advertising before a campaign silence period, final campaign rallies, and other typical activities may have less of an impact on electoral results if many have already voted.

Second, the resulting lengthening of the period in which campaigns must reach potential voters before they cast their ballots may add to campaign expenses. The extended period and greater need for resources necessary for an intensive campaign may benefit better-resourced parties and candidates. Depending on the state's system of political finance, those parties that can collect more donations or expend more resources at an earlier stage may gain an advantage over other competitors.

Third, if many voters vote several days before election day, campaigns may be deprived of the ability to persuade voters based on important last-minute developments (Ballotpedia n.d.). The death or withdrawal of a candidate shortly before election day, or opinion poll information or other news developments emerging shortly before election day (e.g. bombing in Madrid just three days ahead of the general elections in 2004), may affect a voter's strategy for voting a certain way. If many have already voted, then it would be too late for parties or candidates to sway these voters with new information.

Taken together, these challenges begin to pose a further question. International legal instruments relating to electoral processes do not only consider the right to vote and to be elected at regular elections held by secret ballot under universal suffrage—the basis of the emphasis on inclusion that has driven the adoption and extension of many SVAs. The right and opportunity to take part in the conduct of public affairs also includes the freedom to debate public affairs, campaign for election and advertise political ideas (United Nations Human Rights Committee 1996: para. 25). At the time of writing, international jurisprudence has not yet considered whether these rights are substantially adversely impacted when a high proportion of votes have already been cast while electoral debate is still going on—and if they are, how the inclusion of voters and the protection of

the time arena for debate would be weighed against each other when they conflict.

Having said that, SVAs such as postal and early voting remain popular in many countries. In some, these SVAs have even become an essential part of electoral processes as a result of the Covid-19 pandemic. Conditions such as the pandemic may have established a new election landscape with SVAs in place to which campaigners must adapt.

Given the potential impact of SVAs in campaign issues and the ordinary voting process, states might consider limiting the use of SVAs, for example by requiring certain valid reasons to vote by SVA (e.g. illness, being homebound, travelling). This, however, may prove to be unpopular with the electorate in general, who may prefer the flexibility that these SVAs provide. States can address these issues in part by streamlining SVA processes so that early and even postal voters may wait until shortly before election day before casting their ballots, or by reminding postal voters that they may deliver their postal ballot to an EMB or dropbox or other authorized site on election day itself. States may also consider allowing voters using SVAs to change their votes, although this may create administrative challenges for electoral administrators.

IDPs, refugees and other citizens abroad, and incarcerated citizens may have an opportunity to vote due to SVAs, not only increasing turnout but diversifying the composition of the electorate.

Targeting voter groups

One potentially positive effect of the implementation and expanded use of new SVAs is that they may allow new constituents to vote. IDPs, refugees and other citizens abroad, and incarcerated citizens may have an opportunity to vote due to SVAs, not only increasing turnout but diversifying the composition of the electorate.

Depending on their size relative to the total number of likely voters, these groups may cause campaigns to change their platforms and other messaging to address the specific needs and concerns of these new voting groups. Expanding the vote to these groups by new SVAs can itself become a political issue if one political faction deems the expansion of the vote to these new groups of voters as favourable to the electoral outcome of a competitor faction.

On the other hand, the new groups enfranchised through SVAs may have less access to information (e.g. prisoners), and political actors may have fewer opportunities to reach these voters (e.g. abroad). The lack of access to information by voters affects their ability to make an informed choice at the ballot box. Political actors may need to devise specific methods to reach such groups, such as channelling more information online for voters who have no access to conventional media.

The role of the diaspora in determining key internal political issues is a clear example of how expanding the opportunity to vote may impact on partisan strategies. For instance, the number of polling stations to be opened in different countries abroad is often a contentious political issue in Moldova because certain political parties expect to garner more votes in some countries than in others (OSCE/ODIHR 2021). If the diaspora has an important role to play in terms of quantity of votes and related election results (e.g. seats at the parliament), which is the case in some countries, political parties will quickly adjust their strategy to try to reach out to this group and attract new voters to their platforms.

Election day

Many electoral laws specify a 'quiet period' on election day and sometimes for one or a few days beforehand, usually designed to ensure that the heated atmosphere of the final days of campaigning does not spill over to disrupt peaceful polling. As the proportion of votes cast before polling day using SVAs—primarily early, postal and multi-day voting—grows, the question arises whether the quiet period still has meaning, and indeed whether a similar line of thinking is needed to address the environment of polling that takes place before election day.

7.3. **OPINION POLLS**

Substantial growth in the proportion of the electorate taking advantage of SVAs in which votes are cast before election day may also encourage electoral administrators to review existing provisions on contentious issues such as opinion polling of early voters. While release of election results before the end of election day is frequently

prohibited, it is less clear whether publication of opinion polls of voters who cast their ballot before election day should be subject to any controls. Should pollsters be allowed to ask early voters how they voted, and should there be any period when publication of such polls is not permitted?

Opinion polling, and the release of opinion polling data, is a sensitive issue in many democracies. Some states forbid the release of polling data for a defined period before election day. Some have argued, however, that an excessive ban on polls may result in an information gap, leading to an increase in wasted votes in multiparty elections or other elections where information provided by polls may be of value to some voters (Lago, Guinjoan and Bermúdez 2015: 16).

Pollsters in countries such as the US incorporate information obtained from early voters (users of postal, early, or other SVAs) into exit polling used by media and others after voting has closed on election day (AAPOR n.d.). When opinion surveys are permitted and published in the period immediately preceding election day, the data that they contain could even influence the choice of voters, using both conventional voting and SVAs, who have yet to vote. States must make a decision on publication of opinion polls, also taking into account factors such as their demographics, degree of use of SVAs by voters, and political culture.

The enactment of a new SVA is more likely to gain acceptance if it is perceived to be a measure that does not benefit, or punish, certain parties or political factions.

SVAs as campaign issues

The enactment of a new SVA, or a reform to an existing SVA, is more likely to gain acceptance if it is perceived to be a measure that does not benefit, or punish, certain parties or political factions. When the group to be served by an SVA is small, this is usually not an issue. When an SVA promises to attract many voters, and those voters are perceived to have a similar political orientation, then that SVA may become the target of opposition by the political actors who stand to lose from the change.

This can be a healthy development. Debate may result in improvements to an existing SVA or in other measures. It may also result in the cancellation of an SVA that has been shown to have flaws that would affect electoral integrity. EMBs can contribute to a productive discussion by educating all political factions and others

on the operation of SVAs, allowing for transparency, and on the conduct of audits of the SVA vote count and voting procedures as authorized by law.

Country example: Implications of the shift to greater postal voting in Germany

Commenting on the federal elections of September 2021, experts noted that postal voting, which began some six weeks before election day, caused political parties to change their campaign strategies. Instead of putting a significant effort into the final stretch of the campaign, parties began their tours earlier and tried to appeal to the postal voters. 'Once postal voting begins, every day is election day for us' (Schultheis 2021), said the general secretary of one of the major parties.

Political parties who expected their supporters to actively use this voting channel, such as the Greens and the Social Democratic Party (SPD), featured appeals for postal voting on their campaign posters. Free Democrats and the Left party had sections about it on their websites.

Surveys of postal voters indicated that the majority of recipients of postal ballots intended to fill them as soon as their ballots arrived in the mail. This meant that late events like final campaign debates would not have affected these early deciders, nor would they have been swayed by any last-minute scandals on the campaign trail. Postal voting also affected the accuracy of exit polls released on election night, as these surveys did not fully account for early voters.

Summary

- Significant percentages of voters sending or casting their ballots before election day may require election campaigners to change their strategies.

- How to balance promoting inclusion and ensuring that political debate takes place before votes are cast is an important question.

- When SVAs enfranchise new groups of voters, campaigns make efforts to reach these groups. However, this may be more difficult for some categories, such as voters abroad.

- Electoral administrators may wish to review provisions for an electoral quiet period and other elements of campaign regulation.

- Opinion polls among voters who cast ballots before election day and publication of such results require regulatory consideration. When large numbers of voters cast ballots before election day, voters who have not yet voted are influenced by these polls.

- SVAs themselves may become a campaign issue, especially when their introduction or expanded use may change the balance of political support.

Voter identification processes are a fundamental aspect of election integrity and, for SVAs, they are even more important.

7.4. VOTER REGISTRATION AND IDENTIFICATION

Voter registration and elections

Elections are based on universal and equal suffrage, meaning that citizens are entitled to vote or stand, with no unreasonable restrictions. Voter identification processes are a fundamental aspect of election integrity and, for SVAs, they are even more important as these arrangements have one common objective—to make voting more accessible. Through SVAs and other proactive steps, many states have ensured that vulnerable and marginalized groups, incarcerated and hospitalized persons, citizens abroad, IDPs and others have access to the voting process. During the public health emergency stemming from the Covid-19 pandemic in 2020–2021, SVAs have enabled millions of voters around the world to cast their ballots safely.

While the principle is simple and easy to understand, its implementation is far more complex. Millions of data entries have to be processed, a robust link between data and the given individual is necessary and finally the whole database has to be deployed in a very short timeframe—sometimes even a handful of hours—nationwide and maybe abroad. Additionally, the quality of civil census varies from one country to another and voter registers sometimes lack basic trustworthy sources.

In general terms, when assessing such databases, accuracy and inclusiveness are key parameters to evaluate. While the former aims

to establish how much the list reflects the reality, the latter reveals whether biases exist, thereby excluding certain groups of people. Accuracy may affect different parameters, such as addresses—information that is key for electoral logistics and also most likely to change—age, ID numbers, or even the names themselves.

Inclusiveness, which is directly related to the very first goal of SVAs—that is to ensure voting accessibility to all voters—may highlight cultural reluctances to register to vote, deliberate exclusions, or logistic problems. For instance, requiring certain documentation difficult to obtain by certain groups, or limiting the locations to be registered, may result in significant cases of under-representation.

Voter registration is therefore a matter that practitioners need to pay attention to. Some voters may complain that the requirements are too lax, inviting the risk of fraud, and others that identification measures are unnecessarily strict, potentially disenfranchising groups that may face challenges meeting identification requirements.

Voter registration, ID authentication and SVAs

These parameters become more challenging with SVAs, as they entail extraordinary arrangements that multiply voting channels and thus increase options for fraud.

Every mechanism builds on a specific combination of factors that need a corresponding ad hoc arrangement in terms of voter registration. SVAs may entail different polling locations (not just traditional), longer time frames (not just election day) or a wider range of players (e.g. the postal service, medical and care institutions, or embassies and consulates abroad), which can be combined in many different ways.

Voter registration needs to be tailored to each SVA and will normally entail additional steps compared to the ordinary procedure. These steps could become barriers and may (inadvertently) disenfranchise some voters. Lawmakers and regulators must therefore ensure that preliminary steps to access an SVA, such as voter registration and application to use an SVA, are available to those groups to be served by the SVA.

States in general, and EMBs within many states, have increasingly recognized the importance of streamlining the application or 'SVA registration' process, to ensure freer access. Some states have taken steps to expand voter registration outreach to serve specific groups (Carter Center 2019: 33). Other institutions, such as hospital administrators, prison administrators, embassies and consulates, and CSOs serving persons with disabilities and marginalized communities, may also play a role in facilitating both voter registration procedures and voting as such.

Voter registration will connect an SVA with conventional voting. Ensuring universal and equal vote for an SVA is not enough because the SVA will not exist alone. It is part of a greater deployment where all the components need to be perfectly coordinated. For instance, the SVA will need to anticipate potential problems of double voting. Without coordination, a single voter might be able to cast a ballot using different SVAs and even conventional voting. A person might also be able to impersonate another voter, preventing them from voting when they arrive at the polling station. The complexity is therefore higher when SVAs are in place, and voter registration operates as a hidden thread connecting all voting mechanisms available.

Many of the most widely used forms of SVAs do not involve face-to-face interaction between a voter and EMB personnel on or before election day. Postal, online and Internet voting typically take place at home, with the SVA voter conveying their ballot online, through the mail, to a dropbox or physically to a designated site. Those using proxy voting are not required to present themselves personally to a polling site either. EMBs may therefore have to implement special measures to verify the identity of the voters who have cast ballots.

However, voters in some circumstances may feel discomfort with any SVA that involves a degree of literacy (e.g. postal, proxy voting) or familiarity with technology (e.g. Internet, online or other remote electronic voting). Moreover, given that the reasons many voters choose SVAs in the first place are related to reduced mobility or distance from the conventional voting site, even one additional step to access an SVA process (e.g. in-person registration for mobile voting) may be difficult or impossible to undertake.

Procedures governing the SVA voting process should not be overly stringent or complicated (e.g. requirements regarding signature matching, or use of certain colours of ink or envelopes should be designed to be reasonable).[14] These restrictions may be even more of an obstacle if there are no clear procedures for 'curing' a cast SVA ballot that is deemed unacceptable by electoral authorities (e.g. due to a faulty envelope or 'non-matching' signature), or if a voter is unable to cast a provisional ballot to supersede a postal or absentee ballot that is not accepted.

Procedures governing the SVA voting process should not be overly stringent or complicated.

Critics of some of these measures have claimed that this degree of regulation is designed to disenfranchise or dissuade some voters from exercising their right to vote, and that some forms of signature matching may be unreliable for determining a voter's identity. Supporters of these measures have claimed that these provisions help prevent electoral fraud, are not overly burdensome, and do not result in the unwarranted rejection of a significant number of ballots. There are no 'one-size-fits-all' solutions to controversies involving voter identification and SVAs where they exist, and the balance between the required integrity measures and the additional burden they place on the voter is necessarily context-specific.

General patterns

Voter registration is crucial to avoid double voting in SVAs

Double voting appears as one of the main concerns when implementing SVAs. Given that SVAs normally take place in parallel to conventional voting, a poor SVA design may pave the way for fraudulent activities, such as voting multiple times. In this regard, marking off the relevant voter lists becomes a key step to guarantee the overall integrity of the process. All types of advanced voting (e.g. postal, special ballot boxes, online voting) should include mechanisms for voters to be identified in such a way, and therefore polling staff during the election day should be able to identify attempts to double vote. These measures do not exclude mechanisms where an advanced ballot may be superseded by another one cast later (e.g. online voting in Estonia (Valimised n.d.)

14 In USA, signature matching became a controversial issue, among other reasons due to the different rates obtained depending on the social group that was targeted (Graham 2020).

or advanced voting in Andorra (OSCE/ODIHR 2019: 5)) or even on the election day. As noted, such an option might even be recommended since it provides flexibility, which could be needed in some contexts. Polling staff should be able to ascertain whether a voter has cast different ballots and determine which one of them will be taken into consideration for the counting and tabulation of votes.

Specific registers might be necessary for certain types of SVAs

To increase accessibility and achieve an effective universal suffrage, SVAs require a list of voters who need specific arrangements to cast their ballots—although these may vary significantly. On one hand, certain SVAs are open to anyone willing to use these mechanisms. There would therefore be no need to anticipate a special list of target voters. In Spain (Kingdom of Spain 2015: article 72), for instance, postal voting is available to any eligible voter, no specific justification is needed and therefore the relevant voter list would be set up at the same time as an application is filed. On the other hand, the baseline for certain SVAs would be a specific register that includes all eligible voters within a given environment. It would be the case, for instance, for some modalities of special polling stations abroad or voting arrangements in prisons, hospitals or similar establishments. This usually entails voters engaging in a separate process to ensure that they, for example, receive a postal ballot or are on a special polling station voter list.

Registration, application and authentication: Three different categories to avoid impersonation

Impersonation constitutes another recurrent challenge, at least for some SVAs—those where ballots are cast remotely, that is, in non-controlled environments such as postal or online voting. Again, a robust and tested authentication mechanism will verify that the person handling electoral material is the one entitled to vote. It should be noted that any credible authentication system will include requirements and steps that voters will find irritating and cumbersome, but neglecting the importance of this step could have worse consequences (see below Barcelona example).

When considering the different stages that the authentication process requires, it is worth noting that three different phases might be in place, each one with a different role and scope. SVAs

do rely on a general voter list, that is, the conventional one where all eligible voters are included, whether in a passive or in an active way. This database is essential, and no exceptions can be made as the electoral process needs to ascertain with no doubts who is entitled to vote according to the legal framework.

A specific application might be needed to cast a ballot via an SVA. It is the case of proxy and mobile ballot box, for instance. Assisted voting requires applying as well, informally, that is, asking someone for help within the polling station and on election day. In some cases these applications may build the general voter register—that is, the one noted above encompassing the whole electorate. It would involve a proactive procedure that would merge voter registration and application. It could be the case, for instance, for voting from abroad. Databases at diplomatic missions face many problems in terms of updates: a call for elections would be a good opportunity to address this. Citizens living abroad and willing to vote will have to apply in order to get a ballot and the electoral administration will perform two tasks simultaneously. Firstly, eligibility will be assessed, that is, ID credentials will be verified and, if correct, the database of voters will incorporate a new entry. Secondly, ballots and the corresponding material will be delivered to the applicant.

The voter will have to cast the ballot and a new control will exist at this stage—ID authentication. However, not all SVAs require a full ID checking, for instance, ballot dropboxes or normal mailboxes.

Country example: Low authentication requirements led to frauds in Barcelona, Catalonia, Spain

In 2010, Barcelona City Council decided to hold a referendum on an important urban modification affecting Diagonal Avenue, one of its main communication axes. Unfortunately, the referendum turned out to be a failure, in both political and technical terms (Vegas and Barrat 2016: 70–71).

One of the aspects that led to such an outcome was voters' authentication. The Council was mostly concerned about the final turnout, which would be seen as an indicator of success. The mayor therefore insisted on facilitating the participation and the overall involvement of all voters. Specifically, voters had to ask for their ID

credentials via a phone call where passwords were given, provided the voter was able to share their ID number as well as other personal identifiers, such as their address.

As a result, and due to the shrewdness of a journalist, the weakness of the mechanism was fully exposed. The journalist impersonated a known local politician and asked for the relevant credentials on his behalf. Both the ID number and the address or other personal data were not that difficult to find out. Once he obtained the passwords, the journalist was able to vote online. The politician discovered the mix-up the day after when he tried to vote at one of the in-person polling stations that existed in addition to the online voting channel and was informed he had already voted. The scandal led to the removal of the fraudulent vote, a step which could be seen as controversial, and the system allowed the politician to cast his ballot (again). A criminal lawsuit was filed too.

Beyond its specifics, this case provides clear evidence of the important role that voter registration and authentication have when SVAs are implemented. It also shows how external factors, such as political priorities, may lead to structural pitfalls. In this case, a legitimate and reasonable purpose—obtaining a higher turnout—conflicted with the operational requirements of the SVA. Even though only one incident came to light, the consequences went far beyond and affected the entire process. Communication issues matter, as already noted above, as an important part of SVA policies.

Country example: Voting frauds related to postal weaknesses in Birmingham, England

Voter registration systems need to include sufficient safeguards against fraudulent registration for the purposes of obtaining postal ballots. The lack of such guarantees can be painfully exposed, as happened in the UK's 2004 local elections. In Birmingham, candidates and party agents were able to obtain and alter completed postal ballots, and also obtained blank ballot papers, which they used to impersonate legitimate voters. These manipulations were made possible by weaknesses in the voter registration system, which requires only a person's name and address for registration, without any personal identifiers. The returning officers who process applications for registration have no obligation to check the validity

of submitted information, and sources available to carry out these checks are limited. Voters are legally allowed to register in different localities, as long as they maintain residence there. These weaknesses made postal voting fraud 'childishly simple', in the words of international rapporteurs (see a detailed report at PACE 2007: sections 16–29, 34, 37; see also White 2012).

Country example: Citizens inadvertently added to voter list for citizens abroad in Chiapas, Mexico

(See details in the country example in 5.6: Online and other remote electronic voting.)

Summary

- Many SVAs carry special voter lists that need relevant provisions in terms of eligibility, deadlines, inclusiveness and accuracy.

- Double voting or impersonation are usual concerns whenever different registers exist, as is the case for many SVAs, and appropriate preventive measures are to be implemented.

- Careful attention is to be paid to the distinction between voter registration, application and authentication. They are three interconnected phases that all SVAs should consider and adjust to their specificities. Each step should be aligned with the SVA itself and consistent with the general voter list as well.

7.5. BALLOT INTEGRITY: THE BALLOT'S JOURNEY AS PART OF AN SVA

The short, quick journey of a conventional ballot

With conventional voting on election day, the 'journey' of a ballot from unmarked to marked, cast and counted is often short in distance and quick in time. A ballot may never leave the room at any point in the process from when it is marked by the voter to when it is counted. Whether at the polling station or at a separate counting centre, ballots cast on election day are typically counted that evening or shortly thereafter.

The various stages of the SVA ballot's journey

The journey of an SVA ballot is in many cases longer, in distance or in time. Some SVA ballots may travel great distances from where they are marked to where they are counted (e.g. postal, special polling stations (abroad)). Some marked ballots may require storage for an extended period before being counted (e.g. early, multi-day, staggered, postal, online and Internet, provisional). Persons not employed by an EMB, such as postal workers, diplomatic personnel, or administrators of hospitals and detention centres may play a central role in handling SVA ballots (e.g. postal, some special polling stations domestic and overseas). Even in cases where election personnel handle SVA ballots, issues regarding the consistency of procedures may emerge, as in the cases of assisted voting, mobile voting or provisional voting. Because the process of casting a ballot via proxy voting is identical to conventional voting, it will not be considered in this section.

Voters may have concerns about the fate of their SVA ballots once they have been cast. These may include whether the vote was received in time and accepted as valid, what to do if they feel they do not have sufficient time to apply for, obtain, and cast a postal or absentee ballot, and whether they may change a pre-election day vote once cast. Voters may also question whether their ballot was truly secret and whether their vote, once it is cast as intended and stored as cast—which could be a challenge for online voting—has been secured if it is to be counted only after the close of a conventional election day.

Because the issues that may affect ballot integrity can differ greatly from one SVA to another, this chapter will attempt to illustrate these issues at different stages of a ballot's journey. The following stages of the process should be considered:

1. The voter obtains the unmarked ballot.
2. The voter marks the ballot.
3. The voter casts or sends the marked ballot.
4. The EMB (or other actors) secures and stores the marked ballots.
5. The EMB (or other actors) transports marked ballots securely to be counted.

Please note that not all stages will be relevant to a discussion of all SVAs. For example, voters obtain, mark and cast a ballot at an early or advance voting site in a similar manner to a conventional voter, so there will be no distinction to be made between this SVA and conventional voting in these phases of the ballot's journey. Ballots cast with assistance are handled identically to conventional ballots once cast.

The voter obtains the unmarked ballot

The voter may receive the unmarked SVA ballot in person at a polling station (e.g. early, special polling stations, provisional ballots, multi-day and staggered voting, mobile polling stations, assisted voting). They also may have the option of obtaining a paper ballot in person at other official premises.

Providing provisional or tendered ballots, and ballots for persons who may need assistance in voting, may require additional procedural steps on the part of the election worker. In the case of provisional ballots, the election worker will need to ascertain whether the voter meets the conditions to receive a provisional ballot, and to make sure that the voter provides all information necessary for a later determination of eligibility. In the case of assisted voting, election staff may need to determine whether the voter requires assistance and of what type. With both categories of voters, consistency of application of procedures will be important.

SVA voters may receive unmarked ballots online. The ballot itself may be part of an online voting programme, or a document that may require printing. Depending on the system, there may be potential problems in obtaining and accessing the unmarked ballot, including with Internet availability, online connectivity or Internet browser compatibility, or because of other issues, such as hacking and how to ensure that the voter is receiving the actual ballot. An EMB may have to develop other methods of providing unmarked ballots to voters if these potential problems are likely to affect access to the vote.

Requesting an unmarked ballot by mail can present challenges. The timing of the request, and the efficiency of the postal service, will be factors in whether the voter receives the ballot in time. A ballot's complete list of parties or candidates may not be finalized until

shortly before election day. Printing and distributing ballots for SVA use would also require additional time.

There can be an element of risk in relying on the mail to obtain a ballot—even well-performing postal systems may lose mail or inadvertently delay mail delivery. Tampering with the mail may also result in unmarked ballots not arriving. Universal postal ballot systems may not provide ballots to all eligible voters if there are errors in the voter register or voters have moved after the last update of the register.

The voter marks the ballot

With in-person SVA voting options, as with conventional voting, a primary concern in marking a ballot is with the secrecy of the process. The configuration of the physical site, allowing for confidential marking of the ballot in a booth or behind a screen, is an important element of a fair voting process. In the case of mobile voting, the EMB would need to ensure that portable voting booths or similar equipment are provided as part of the operation.

On-site election officials must ensure that those assisting voters, including at 'curbside' or 'drive-through' polling sites, act in accordance with electoral procedures if that assistance includes marking the physical ballot.

In the case of postal ballots, an additional concern may arise if a voter has made an error in marking their ballot—since obtaining a replacement ballot by mail would require additional time. Finally, for SVAs in which the ballot is marked in unsupervised environments (e.g. online voting), a trade-off may be made in the sense that greater accessibility takes precedence over other considerations, such as family voting and its impact on freedom and secrecy.

The voter casts or sends the marked ballot

This stage of the ballot's journey includes different possibilities, depending on the SVA.

1. The ballot may be placed into a ballot box on site at a polling station (e.g. assisted, early, multi-day and staggered elections, and at domestic or overseas special polling stations). Mobile

ballot boxes, or even mobile polling stations, aim to replicate this scenario and therefore they are included here.
2. The ballot may in some cases be placed into a ballot box in accordance with special procedures for persons requiring assistance to vote.
3. The provisional or tendered ballot with supporting information may be set aside in a prescribed manner to be provided to election workers for subsequent investigation.
4. The ballot may be cast electronically in online voting systems.
5. The postal or absentee ballot may be deposited in a 'dropbox' or another official, remote container.
6. The postal or absentee ballot may be delivered in person to an EMB.
7. The marked ballot with accompanying envelopes and other documentation may be sent to the EMB by mail.

Online voting processes ideally should provide a confirmation message indicating that a vote has been cast as intended and stored as cast, and automatic prompts in cases where a voter attempts to terminate the online voting process before a vote is cast (see 5.6: Online and other remote electronic voting, Country example: Finland). Voters may not realize that they have taken all the steps necessary to ensure that their ballot has been sent.

Online voting processes ideally should provide a confirmation message indicating that a vote has been cast as intended and stored as cast.

For a combination of reasons, including the timing of when the marked ballot is sent back, logistic irregularities or inefficiencies, or ballot tampering in extreme cases, ballots returned to the EMB may not arrive in time to be counted.[15] This may especially be the case when ballots are sent internationally by voters abroad close to the deadline.[16] For the impact of a high rate of rejected ballots and how such figures may impact on the credibility of SVAs, see 7.6: Counting and audits.

In any case, it is good practice for an EMB to enable a voter to track when or whether their ballot has arrived at the EMB. Some states in the US have developed online tracking systems that a voter may access to determine when a blank ballot was mailed out by the local

15 See German rules and recommendations to voters on when to send back the ballot package in order to meet the deadlines (Federal Returning Officer n.d.).
16 See the British case on how voters abroad struggle to cast ballots in time: Hadfield (2019).

EMB, when a returned ballot was received, and whether the vote was accepted (Galvin n.d.). Voters using this Internet tracking system must verify their identity, and face penalties if they falsely attempt to access another voter's ballot-tracking information.

A sufficiently long period between when ballot applications are available and the deadline for their receipt would allow EMBs the opportunity to communicate with voters to obtain corrected information, although the time needed to finalize a ballot may be too long and the timeframe for application correction impossible. Robust voter education, on both how to properly apply for and cast a ballot, and how to inquire about its receipt and acceptance by an EMB, also helps to prevent errors.

Ballot tracking can be a serious concern as there may be no method of determining whether a ballot has arrived and whether it has been accepted. Voters concerned about missing the deadline may also in some instances lose the opportunity to vote by some other means, including conventionally on election day, if they have applied for advanced voting. They will also lose the chance to correct errors in ballot packages in time for an election.

Allowing for changes enables voters to take in new information about parties and candidates closer to election day and ensures that their final choice is reflected on their ballot.

In addition, some SVAs in some jurisdictions permit a voter to change their vote if there is time to do so before election day. Some online voting systems, for example, may allow for this. Some US states may let voters cast a provisional paper ballot on election day and invalidate an earlier cast postal or absentee ballot (Harrington and Relman 2020). Although the latter act, in particular, may place administrative burdens on an EMB—which must now locate and discard the earlier cast postal or absentee ballot from the count to prevent double voting—allowing for changes enables voters to take in new information about parties and candidates closer to election day and ensures that their final choice is reflected on their ballot. Such an option may also help to mitigate SVA problems: voters may use a different voting channel if the first one is not performing well.

The EMB (or other actors) secures, stores and securely transports the marked ballots

Several SVAs allow for the casting of ballots before the final election day and the commencement of the ballot counting process. These

SVAs include early voting, postal voting, online voting, staggered voting and multi-day voting. These arrangements call for the establishment of procedures for securing and storing marked ballots for later counting. Other SVAs may also operate a day or more before the final election day (e.g. mobile voting, domestic or overseas special polling stations). Provisional or tendered ballots may require storage for some time before they are investigated to determine voter eligibility.

Ballots that may require secure transportation by an EMB include mobile ballots; postal ballots; ballots deposited into dropboxes or at EMB offices; provisional or tendered ballots (depending on how they are processed); some ballots cast at 'curbside' or 'drive-through' polling sites; and ballots cast at the earlier phases of a staggered election. If ballots are not counted at polling stations abroad, they may instead be conveyed by the embassy or consulate, through diplomatic pouch or other means (e.g. private delivery services), to the other relevant institution that conducts the vote.

The overarching goals of secure handling of marked ballots are generally to prevent tampering with those ballots and to promote confidence that the ballots have been maintained in an unbroken chain of custody throughout the relevant period. To prevent tampering EMBs (or other actors charged with securing ballots such as law enforcement) may use special storage boxes in secure rooms to keep marked ballots that have arrived early. If feasible, video surveillance may add a layer of security to sites holding ballots. Dropboxes and other off-site containers for receiving marked ballots may include locks or tamper-evident seals and, if feasible, video surveillance.

Providing an opportunity for partisan representatives and other observers to witness the storage process, including allowing for sealing of containers or doors by partisans, can help an EMB demonstrate that ballots have not been tampered with. US election experts have recommended including two-person or bipartisan teams when some cast ballots are transported, such as when they are brought from dropboxes to secure central storage (Danetz 2020).

Providing an opportunity for partisan representatives and other observers to witness the storage process can help an EMB demonstrate that ballots have not been tampered with.

Depending on the nature of the SVA, transparency measures could be customized to match the process of ballot storage, but ultimately—and given the involvement of different stakeholders in a remote and long procedure—social confidence would need to rely on the global performance of some stakeholders (e.g. postal services) and not the direct inspection of party agents and observers.

In addition, consistency in the application of ballot collection and storage procedures builds confidence in the integrity of the process. Ensuring that EMB officials are well trained and experienced, and have the benefit of clear manuals and handbooks defining and guiding the conduct of their duties—particularly those with challenging tasks such as administering mobile balloting—is advisable. For Georgia and how ballots from mobile voting are handled, see, among others, Georgia (2021: article 66).

In the 1996 elections in Bosnia and Herzegovina, out-of-country ballots cast by refugees and ballots cast in special 'absentee' polling stations by IDPs were transported to a central sorting centre in Sarajevo, where they were sorted into bags corresponding to the municipalities of origin of the voters. Each of these bags was then transported to the counting centre for the municipality concerned (Edgeworth and Hadzimehic 2007: 165). It was necessary for the electoral administration not only to be on top of the logistic and security issues involved but also to be able to organize the major sorting operation required (which was similar to that undertaken in a central post office).

The storage of marked ballots for online and Internet voting presents unique challenges. Please see 5.6: Online and other remote electronic voting for an examination of issues related to the ongoing issue of ensuring cybersecurity and cyber trust.

Country example: Secure storage of early voting ballots in Ghana

Rules regarding when to count and disclose the results coming from early voting should be clearly established by the legal framework. While the standard procedure indicates that such ballots will be stored and the tally will take place when the general polling is closed, vague or contradictory regulations may cause confusions. This

was the case in Ghana in 2016, where the margin of manoeuvre that certain legal terms might allow led to a discussion, and finally to a court decision, on when results from early voting should be published.

Special voting provisions in Ghana enable categories of voters with election-day related duties to vote in polling stations before election day (Electoral Commission of Ghana n.d.). While the Constitution determined that the results should be published 'after the close of the poll' (article 49), the Public Elections Regulations of 2016 elaborated that principle regarding early voting. In particular, Regulation 23(11) read as follows:

> The returning officer shall at the end of the special voting
>
> (a) ensure that the ballot boxes are kept in safe custody after the poll has closed;
> (b) ensure that the ballot boxes are sealed with the seals of the Commission and any candidates who wish to add their seal; and
> (c) arrange for the ballot boxes to be opened at the time of the counting of the votes cast on the polling day and the ballot papers shall be counted in the same manner as those contained in the ballot boxes used on the polling day.
> (Electoral Commission of Ghana 2016)

According to the Constitution, results from early voting would have to be published right after close of such a voting arrangement, that is, 'after the close of the poll'. The term 'poll' was interpreted here as referring to each voting mechanism and not to the general poll as such.

However, the Supreme Court of Ghana (2016) cited Regulation 23(11) and upheld the practice of counting special voting ballots only at the end of the final election day. The Court adhered to a broad meaning of the term 'poll' and mentioned that the practice was aligned with the patterns that are followed by other countries also using early voting. Moreover, the Guide to Election Officials 2016, which was also cited in the decision, stated as follows:

2.2 Custody of Ballot Boxes for Special Voting
Ballots cast on special voting day must NOT be counted after the poll. The ballot boxes containing the ballots should be kept in a secured room at a police station in the constituency, and sealed with the seals of the Commission and any candidate/party who may wish to add their seals.

2.3. Counting of Special Voters Ballots
On polling day after polling ends at 5.00 p.m. (or when the last voter in the queue at 5pm has voted), the returning officer must retrieve the special voters ballot boxes from the police station and count the ballots in the presence of the candidates or their agents at the constituency collation centre.
(cited in Supreme Court of Ghana 2016: 7)

Country example: Problems with the casting of ballots in a mobile ballot box in Merriwa, Australia

Approximately 75 voters at a care home for elderly people in Merriwa, Western Australia, had to re-cast their ballots in the 2014 re-run Senate election following irregularities with a temporary mobile ballot box (Parliament of the Commonwealth of Australia 2015: 21; Griffiths 2014), which arose due to a mobile polling team improperly constructing a mobile ballot box. Instead of delaying the casting of the votes to ensure the ballot box was properly constructed, the polling went ahead with an improperly constructed box, therefore invalidating the votes cast within it (Danetz 2020).

Summary

- Special features of SVAs may impact on different electoral phases, from voter registration to counting and tabulation. It will depend on the nature of each SVA.

- The 'journey' of an SVA ballot is in many cases longer, in distance or in time, compared that of a conventional voting ballot.

- Public monitoring of safe storage and ballot tracking are standard measures to ensure SVA acceptance.

7.6. **COUNTING AND AUDITS**

Counting SVA ballots

Accurate vote counting, tabulation, and announcement of preliminary results are essential parts of a credible electoral process. To ensure a fair and accurate counting process, there are many factors that lawmakers and EMBs must consider. These include implementing clear procedures, including on determining voter intent and whether a ballot is valid; providing for transparency of the process; auditing of the counting process to verify fairness and accuracy; and fair adjudication of disputes regarding the process.

Counting SVA ballots can produce unique challenges. Some of these are noted in the sections in Chapter 5 describing the different types of SVA. This section will elaborate on some overarching issues regarding counting SVA ballots and conducting audits.

Timing of ballot processing, counting and result announcement

Many SVA ballots are cast and received by an EMB before election day. Some of these ballots are known to originate from eligible voters because the voter's identity has already been verified—for instance, during early voting. For other ballots, such as postal and online votes, there are additional steps that an EMB must take before these votes may be counted. These include verifying the voter's identification and registration information, and ensuring that their signature or other identifier is valid. Different jurisdictions may have different requirements regarding when the EMB may begin to verify the identification and eligibility of postal voters and when they may count the votes once verification has been made. EMBs that may begin the verification process upon receipt of the ballots are more likely to be able to complete more quickly their overall count and announce preliminary results at the close of election day. Another option (e.g. in Spain) is to release preliminary results based on election day votes but conduct the final count after all ballots, including last-minute arrivals, are received. Such counting of ballots coming from abroad may take place after election day, provided the votes received meet the statutory deadline, for example that the ballot has been sent out and marked by the postal service before the closing of voting. In any event, jurisdictions that prohibit EMBs from beginning the verification

process until election day risk needing additional time to announce results.

Provisional or tendered ballots also require additional review and processing to determine whether the person casting that vote was eligible to do so. Particularly in electoral systems that process large numbers of provisional ballots cast on election day, provisional ballot counters may also require a significant amount of time before full results can be announced.

Deadlines in the announcement of preliminary election results may cause tension, especially if the delays are unexpected. Voters, perhaps accustomed to predominantly conventional voting winners being announced shortly after election day, and familiar with patterns of when results are reported (e.g. urban results being announced shortly after polls close, while rural vote totals are announced later), may find a delay of some days or longer in announcing accurate SVA vote results to be somehow irregular or suspicious. This may damage the perceived credibility of electoral results when they are ultimately announced. Partisan political actors may claim fraud involving the counting of SVA ballots, particularly if voters who tend to use a certain type of SVA also tend to vote for an opponent party or candidate.

Such delays are largely avoidable, save for exceptional circumstances when an unexpectedly high volume of SVA ballots is to be handled. With sound planning, SVAs do not need to entail delays, especially since those ballots that do not follow normal counting patterns (such as postal votes) are cast before election day. Voting from abroad may also involve deadlines, either for voters to mail their ballots or for their receipt by the EMB. It is advisable to have a statutory cut-off date after which ballots arriving late will not be taken into account.

As part of a general voter information programme, and as part of educational programmes for candidates, parties, and other electoral stakeholders, EMBs can explain the SVA verification and counting processes and why additional time may therefore be needed to complete the vote count. Stakeholders should be informed of how partial results may appear to favour a particular candidate or party, and that this candidate or party's 'lead' may be ephemeral

and victory uncertain until enough votes have been counted. Such trends are not exclusive to SVAs, and not applicable to all of them, but their acceptance and understanding could be more difficult to achieve if unfamiliar (and different) voting arrangements are in place. Proactively managing expectations and answering likely questions that voters, election contestants, the media and others may have about the counting process can reduce tension and concern about the fairness and accuracy of the process.

It is important for procedures governing every aspect of SVA vote counting to be not only clear but designed to circumscribe and guide the work of ballot counters with sufficient detail. Counting procedures that are comprehensive and cover every action taken by election staff, if they are followed, provide protection against claims that personnel have somehow deviated from procedures for the benefit of a particular candidate or party.

Because so many SVA ballots are cast early, there is a possibility that disclosure of partial results, before all votes have been cast on election day, may influence the decision making of those who have yet to vote. For this reason, in staggered elections such as India's, where votes may be cast in different parts of the country over several weeks, votes are only counted after all votes have been cast. Preventing disclosure of partial results requires proper training for election officials on when and how early ballots may be legally counted, and sanctions may be needed to discourage unauthorized release of information. Where exit polls are taken before and on election day, their publication also needs to address the same issue—which is why some countries require that such polls may be published only after the close of polling stations on election day. Enforcement of such rules, however, is increasingly challenging, due to leaks through social media from users abroad.

Protecting the identity of SVA voters

In some circumstances, the announcement of vote totals for SVAs involving small numbers of voters, such as mobile voting in a particular geographic area, may in effect result in disclosure of how these voters voted, undermining their right to a secret ballot. As part of a general good practice of ensuring that votes are counted and reported in a manner that minimizes the likelihood that a voter's

choice may be identified, votes cast in such cases should, as far as possible, be pooled and included in the vote count of other units of the jurisdiction to preserve secrecy (see also the example of the Cayman Islands below). This may require exceptions to the general requirements of reporting units and aggregation of vote totals in the legal framework—for instance, if a special polling station has a small number of registered voters or falls below a minimum number of votes deemed sufficient to adequately safeguard secrecy, it should be merged with a larger polling station for counting and reporting purposes.

Electoral audits

There are additional steps lawmakers and EMBs can take to ensure that SVA vote counting processes are credible and more likely to be accepted by voters. As is discussed in greater detail in Chapter 5, transparency of the counting process and the opportunity for both partisan representatives and neutral observers to witness the process is an essential safeguard, but its applicability to SVA varies: in uncontrolled environments such transparency is by definition limited. Audits can play an important role in ensuring that SVA ballots have been counted accurately and have been processed properly in accordance with the law.

A variety of audits can be employed in elections. A legal or system audit may assess whether an election was held in compliance with the applicable laws. An access audit may look at whether an election complied with all applicable regulations and undertook adequate measures to ensure the enfranchisement of all eligible voters. A ballot design audit may evaluate the usability of ballots for all voters, including voters with disabilities and those with little literacy. Process audits evaluate whether a particular electoral operation conformed to the standards set in election procedures, including whether the process was efficient and effective. Product (or equipment) audits examine whether software or other equipment conforms to requirements and performance standards (Zoch 2021).

Election results may also be audited, in at least two ways. In a more 'traditional' audit, which relates to the use of voting machines, the paper record of voting results in a fixed percentage of voting precincts is compared with the results produced by the voting

system, to ensure that results were tabulated correctly. A 'risk-limiting audit' involves a partial recount of votes, that is a statistically significant sample to ensure that it confirms the election outcome. If the margin of victory is narrow or if discrepancies are found, the audit escalates, and more ballots are reviewed until either the required level of confidence is met or a full manual recount has been performed (Zoch 2021).

Audits can be employed in relation to the electoral process as such (or its particular stages), or specifically to SVAs. A number of considerations are relevant for decision making with respect to electoral audits. At the outset, audits intend to accomplish two things: 'The first is to ensure that the election was properly conducted, that election technologies performed as expected, and that the correct winners were declared. The second is to convince the public of the first thing' (Stewart and Alvarez 2018: iv).

For the first purpose, good practices include ensuring that neutral criteria are used in selecting samples to be audited. As with vote counting, clear, comprehensive legal procedures governing the conduct of the audit are important for ensuring a consistent audit process and avoiding suspicion of bias or favouritism. It is essential that records are preserved, demonstrating an unbroken chain of custody for all sensitive electoral documents. Transparency of the process, allowing partisan representatives an opportunity to observe the audit, will help demonstrate that the audit is being conducted fairly. The body responsible for conducting the audit may be the EMB itself, or an independent board, created specifically for the task. In the latter case, such a body should be equipped with sufficient resources for timely completion of the audit.

The second purpose, reassuring the public, may be more challenging than the first. An audit relies on expert knowledge when it comes to sampling and interpreting the results, which will not be readily understandable to the general public and require appropriate communication and explanation. If performed by the EMB, the audit will have as much credibility as the EMB itself and may add little to public confidence (or lack thereof). These factors at least partially explain the findings in the 2016 Survey of the Performance of American Elections, where 91 per cent of respondents from states

that required no post-election audits felt they were very confident or somewhat confident that their votes were counted as cast; in states that did require post-election audits the figure was 90 per cent (Stewart and Alvarez 2018: ix).

In any event, ballots, envelopes, and other supplies and documentation connected with SVA voting, as well as software used by officials to administer an SVA, should meet stringent quality standards and ideally facilitate audits of the process and results. Designing SVA procedures and documentation with possible future audits in mind is one of the parameters related to openness and accountability.

Country example: Austria's Constitutional Court annuls election results due to irregularities with postal ballots

On 1 July 2016 Austria's Constitutional Court upheld the application by the Freedom Party to annul the results of the presidential run-off vote held on 22 May 2016, in which the Freedom Party's candidate (Norbert Hofer) was defeated by the margin of some 31,000 votes (Constitutional Court (Austria) 2016). Among other arguments, the applicant claimed that in many electoral districts postal ballots by absentee voters were examined and counted before the officially permitted time—that is 9:00 on the day following the election day—often by municipal employees who were not authorized to handle ballots without the presence of members of district election commissions. Furthermore, the results of postal voting were released to the press and published several hours before the end of polling, forecasting a victory for Norbert Hofer. According to the applicant, this publication mobilized those supporters of Mr Hofer's opponent (Alexander Van der Bellen) who had earlier not planned to vote, and depressed turnout among those supporters of Mr Hofer who were still undecided whether to vote.

The Constitutional Court established that the irregularities with the counting of postal ballots in breach of the legally prescribed procedures affected a larger number of postal ballots than the winning candidate's margin of victory. This was sufficient to cast doubt on the reliability of results, even in the absence of proof of specific manipulations. The Court also held that the practice of the Federal Electoral Authority of informally releasing partial voting

results before the end of voting was contrary to the principle of free elections. All these violations led the Court to annul the run-off election (Constitutional Court (Austria) 2016).

Country example: Protecting voter identities when announcing SVA results in the Cayman Islands

The procedure for counting mobile and postal ballots was amended as a last-minute change before election day in the Cayman Islands in 2021. Previously, mobile and postal ballots were counted separately and could be identified as such. In several cases, the number of ballots inside each mobile box or each postal box could be very low. Sometimes this was fewer than 10 but nearly always fewer than 40 or 50 combined. This meant that it could be simple to reconcile the list of electors voting in those boxes with the result, representing a risk that voter secrecy could be compromised.

As reported in the media (Roberts et al. 2021), the process was changed by the Cabinet a few days before polling day to allow postal and mobile station ballots to be mixed with ballots in regular ballot boxes prior to the start of any count so that agents, candidates and others present at the count would not be able to determine how a particular ballot was cast via mobile and postal voting. The Elections Office fought for this amendment, which improved the ability to keep the ballot secret. A domestic observer group welcomed the change, while noting that last-minute amendments should generally be avoided.

Summary

- Where SVA ballots are received before election day (e.g. in the case of postal voting), they should be prepared for counting in advance of the election day. Counting itself normally takes place after the election day voting. Disclosure of partial results should be avoided.

- A variety of audits can be employed in elections. Post-election audits are carried out on a sample of ballots or results tallies to verify that votes have been accurately counted and tabulated.

- Audits may be employed to increase public confidence in SVAs, but their effectiveness depends on a variety of factors, including the credibility of the body carrying out the audit.

7.7. **OBSERVING SVAS**

In the latter part of the 20th century, electoral observation emerged as a common means of assessing a country's commitment to democratic integrity. The degree to which a state would allow for a wide range of domestic and international election observers and the openness with which observers might witness aspects of the electoral process were indicators of a democracy's good faith and willingness to accept a fair assessment of its electoral processes. Observers, for their part, would be subject to reasonable conduct restrictions, such as remaining non-partisan in their activities and not interfering in an electoral process. Ideally, the reports of observation missions would form part of the basis for post-electoral review, and reforms designed to improve the electoral process.

Observing SVAs may play a particularly useful role in building and maintaining public trust in the specific voting arrangement.

Given that a voting procedure deviating from the conventional one will be in place, observing SVAs may play a particularly useful role in building and maintaining public trust in the specific voting arrangement. However, observing such mechanisms is not that easy, as the very nature of SVAs, as well as the constraints of the election observation mission as such, may pose challenges for basic tasks. It should be noted that election observation reports may fail to cover SVAs and, even though there may be reasonable circumstances to justify this omission, citizens may not understand the reason for such a gap in information, and legitimacy could be undermined. When observation is feasible, however, states can promote greater trust in an SVA by ensuring that media, partisan representatives and observers have a genuine opportunity to observe aspects of the process.

In general, SVAs that are administered in regular polling stations are observable in the same place and a similar manner as the conventional voting process. Observers who monitor proxy voting, assisted voting and tendered ballots should have knowledge of the procedures for these SVAs and be given the opportunity to verify that procedures are being followed by election officials. Assisted voting is known to have been abused in some settings (e.g. when voters who pretend to be illiterate are assisted by partisan agents), so observers need to also be trained in identifying indicators of potential malpractice.

Observing other SVAs may require additional resources from the relevant organizations. For example, monitoring early voting, multi-day voting and postal voting requires deploying observers for longer periods of time. Observing mobile voting requires observers to follow the ballot box or polling station during the day. Observing polling stations abroad relies on the availability of locally recruited observers, otherwise it may be prohibitively expensive. Consideration should be given to the actual scope and resources of the electoral observation mission. Different formats exist in terms of composition, topics to be covered, presence throughout the country or timeframe, and the ability to properly observe electoral procedures and SVAs in particular will partially depend on these factors.

Even with an ambitious scope of operations, observation missions may be unable to observe important aspects of SVA processes in country. For example, in cases when an election is rescheduled due to urgent circumstances, organizations may be unable to recall observers to return to observe a later election. Observers in many cases are either volunteers or paid only a minimal fee for their services, and may be unable to commit to an extra-long electoral timeline. Post-election day activities that may take weeks, such as the counting of postal ballots; the resolution of disputes regarding counting and tabulation of any SVA votes and the recount; and the audit or other post-electoral review of SVA processes that may result, may be a challenge for some organizations to observe and follow. Cooperation between international and domestic observers, to remain in place in order to track the whole electoral cycle, could be beneficial.

Observers may experience specific issues with access to some SVAs. For example, mobile ballot box teams may visit private homes, where access may be limited. In addition, for a variety of reasons states may be unwilling to grant full access to observers. Some countries have cited security reasons to prevent observers from witnessing voting in special polling stations or by mobile balloting in locations such as prisons, politically disputed regions and military bases. Access to medical institutions and detention facilities may require prior notification. Legal frameworks on SVAs should provide for the right of observers to accompany polling staff in special institutions

Legal frameworks on SVAs should provide for the right of observers to accompany polling staff in special institutions such as hospitals, care homes and places of detention.

such as hospitals, care homes and places of detention—the physical spaces where voting is taking place.

Moreover, special polling stations overseas may be subject to access limitations for observers imposed by the origin country or the host one. This may be due to the host country's political sensitivity involving the election of a neighbouring country or to prevent scrutiny of the process, which may take place at embassies or consulates, or in other sites such as refugee camps. It is important, however, for observers to be able to observe these sites, particularly since there may be a higher incidence of potential voter coercion.

Another potential problem with observing certain SVAs is the risk to observers' personal security. The very reason some SVAs exist, such as special polling stations for the military or IDPs, may be due to a risk of violence or other insecure conditions. In some cases, areas holding rescheduled elections due to urgent circumstances may be too unsafe for observation, particularly if the state itself has contributed in some respect to those urgent circumstances and seeks to evade criticism. Normally, these sites should be observed, and states should allow observers to do so, but only if the personal security risk to observers is acceptable.

In the case of a public health emergency such as the Covid-19 pandemic in 2020 and beyond, many observer organizations were compelled to minimize their involvement on missions, relying on fewer international observers or more domestic observers. See, for instance, the Georgian case, where domestic electoral observation gained notable prominence (NDI 2020: 8–9).

Finally, the nature of some commonly used SVAs makes the observation more difficult in many respects. Absentee, postal, proxy and many forms of Internet or telephone voting are conducted by voters in their homes with the documentation (e.g. postal and proxy voting) or the votes being conveyed to the electoral administration by a variety of difficult-to-observe methods. In these cases, observers may wish to focus on the ballots once they have arrived, and once they have been formally counted, ensuring if possible that the ballots that arrive early have been stored securely. Observers can serve the process by ensuring that other observers, media and partisan

representatives are present and able to observe voter identification confirmation processes (such as signature or other ID confirmation) for postal and absentee ballots. Observers may also want to broaden their remit from mere operational issues to other socio-cultural factors, such as institutional credibility or social mutual trust that could foster SVA implementation.

Moreover, in certain SVAs such as online voting, which is not observable by conventional means, attention could be paid to voting preparations and not only to how ballots are handled once cast. Many crucial decisions (e.g. procurement) could have been undertaken beforehand. Meaningful observation needs to be tailored to the different stages of IT implementation and requires a combination of expertise, including computer science, law and political science.

Country example: Sri Lanka

Early in-person voting, which in Sri Lanka was usually known as postal voting (EU EOM 2015: 11–12) since the ballots, once cast, are sent out by postal means, is a difficult voting arrangement to observe, but some election observation groups managed to address its specific needs in order to assess, at least to the extent that is possible, the implementation and compliance with election rules and standards.

Early voting requires a resourceful organization, among other things, given that voting takes place normally some days before the election day and the relevant group would need to undertake different deployments duly tailored to the size and nature of the specific voting arrangement to be assessed. In Sri Lanka's 2015 elections, People's Actions for Free and Fair Elections (PAFFREL) deployed a mix of teams, either mobile or not. PAFFREL is one of the most prominent CSOs working in this field in the island.

The election report that followed the 2015 elections stated that postal voting encompassed 700 centres:

> PAFFREL carried out monitoring … through the deployment of 1000 Postal Voting Observers island wide. In addition, PAFFREL deployed 35, four-member Mobile Observation teams to support, observe and report on Postal Voting. One

> of the major issues related to the poll in affected areas was the delay to distribute poll cards. According to electoral laws, poll cards must be delivered a week prior to the election. However, the Commissioner of Elections is empowered to give a directive where the deadline could be extended. Using this directive, the Commissioner of Elections declared additional days for Postal Voting to be carried out. Therefore, voting was also allowed on January 3rd and 6th, 2015 to enable a large number of persons who had missed out on previous occasions to cast their vote.
> (PAFFREL 2015: 21)

As noted in the text, the observation entailed different challenging aspects, the different days when voting took place and the importance of previous steps (i.e. distribution of polling cards) to be duly implemented. Therefore, any team of observers should establish a strategy capable of assessing all these components and combine first- and second-hand reports to get the full picture of the SVA implementation.

Summary

- Given SVAs depart from conventional mechanisms, observation becomes crucial in building and maintaining public trust.
- Observation modalities need to be adjusted to the nature of every SVA and a complete direct observation may sometimes not be feasible.
- Observation groups need to anticipate enough resources and adequate methodology to cover SVA implementation.

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Chapter 8

CONCLUSIONS

The electoral management guiding principles of independence, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness are also relevant to the consultations, design, communication, introduction, implementation and performance assessment of SVAs. As part of broader efforts to strengthen the legitimacy and credibility of electoral processes, SVAs are particularly relevant to global discussions on political inclusion in a rapidly changing environment.

8.1. SVAS ARE SPECIAL BUT NOT EXCEPTIONAL OR EXTRAORDINARY

SVAs are special, in that they diverge from conventional voting, but they are not exceptional because they are already in widespread use. In some countries or regions, SVAs already are, or may soon become, the main voting channel for most of the population.

SVAs are increasingly understood as necessary to address accessibility issues that conventional voting cannot solve appropriately for certain groups of voters with specific requirements. In that sense, adopting SVAs can be considered part of a state's obligation to enable all eligible voters to exercise their right to vote. These requirements encompass a wide variety of cases, such as voters with a disability, those away from their home district, voters on duty, and others. SVAs should be considered at a minimum for those who cannot vote conventionally, and a distinction can be made

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between SVAs serving groups that need special arrangements to be enfranchised and SVAs that aim to make voting more convenient.

Well-designed SVAs prevent de facto disenfranchisement—through institutional, out-of-country or at-home voting for those unable or unwilling to go to a designated polling station.

8.2. SVAS MAKE ELECTIONS MORE ACCESSIBLE BUT DO NOT NECESSARILY INCREASE VOTER TURNOUT

Well-designed SVAs prevent de facto disenfranchisement—through institutional, out-of-country or at-home voting for those unable or unwilling to go to a designated polling station. However, the rise of voters using more convenient SVAs, such as advance voting, may not profoundly influence overall turnout, as one voting method replaces another. Voter turnout may even decrease if the 'electorate' increases with new categories of voters, such as citizens living abroad.

8.3. CONVENTIONAL VOTING REMAINS THE 'GOLD STANDARD' FOR ELECTION INTEGRITY AND SERVES AS A BENCHMARK FOR SVA DESIGN

Conventional voting is a widely accepted mechanism that safeguards the key principles of free elections. The controlled environment and established voting procedures within a polling station provide high standards of integrity, such as the secrecy of the ballot and the prevention of fraud. For reasons of social cohesion, democratic tradition, civic ritual and electoral integrity, many voters and policymakers will continue to favour conventional voting.

All voting arrangements require trade-offs, for example, between secrecy and participation or between security and accessibility. While conventional voting provides a traditional and consolidated voting mechanism that preserves secrecy and security, it cannot ensure the participation of certain groups of voters. SVAs facilitate participation, but ensuring the confidentiality of the vote can be more difficult with arrangements such as proxy voting, assisted voting and any form of remote voting system (e.g. postal, online).

8.4. THE OPTIMAL SVA MIX IS CONTEXT-SPECIFIC

An appropriate SVA or mix of SVAs is tailored to the unique context of cultural norms, available infrastructure, demographic patterns and identified needs of voters. While no 'one-size-fits-all' optimal or universally applicable SVA mix exists, some rules of thumb can help guide SVA choices.

Expanding existing SVAs to new categories of voters is more manageable than introducing entirely new ones. Cross-partisan acceptance and social consensus enable the successful implementation of SVAs. The active engagement of CSOs and special interest groups can improve SVA design and relevance to the needs of specific groups in society. SVAs imposed or modified for short-term partisan political purposes (or perceived as such) may lack electoral legitimacy.

Voter education and public awareness campaigns build a shared understanding and can help build trust in new or unfamiliar voting processes. Informing voters leads to SVAs that are used correctly and to valid votes.

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8.5. WELL-DESIGNED LEGAL FRAMEWORKS PROVIDE CLARITY AND STABILITY FOR COMPLEX VOTING ARRANGEMENTS

Clear and comprehensive laws and regulations will help protect an EMB from claims of bias or error in executing its duties. SVAs typically involve voting procedures that are more complex for officials to manage, party agents to monitor, and voters to use. Well-written laws allow for a shared understanding of the rules, which can pre-empt confusion and support user-friendly procedural instructions, manuals and voter information campaigns.

International standards call for a period when election laws should remain stable and not be modified. This vital principle is particularly relevant to the introduction of SVAs. A last-minute, quickly adopted, poorly planned SVA will often lead to voter confusion and electoral officials lacking preparation, and can damage the credibility of an election.

8.6. **OPERATIONAL COMPLEXITY INCREASES WITH EACH INTRODUCED SVA**

SVAs are complex systems that alter the normal functioning of standard voting processes and thus require new institutional practices. Needs and risk assessments, feasibility studies, institutional capacity building, and a gradual introduction, including pilot phases, are elements of a cautious approach that any SVA implementation should follow. Guidelines and training for election personnel will accommodate the 'learning curve' while alleviating inevitable problems and unintended consequences of implementing new and unfamiliar voting methods.

8.7. **COSTS WILL INCREASE: ONLY APPROPRIATELY RESOURCED EMBS CAN IMPLEMENT SVAS SUCCESSFULLY**

Costs increase significantly with the introduction of each new voting stream and remain elevated over successive elections. An EMB can be set up for failure if mandated to introduce or scale up SVAs without commensurate long-term resourcing.

Each SVA potentially necessitates a parallel infrastructure of materials, procedures, staffing, cooperative agreements and technical solutions. In addition, there are overhead costs to ensure that various arrangements integrate seamlessly to secure the election's integrity, such as avoiding the double-counting of votes.

Large-scale online voting is the only SVA that potentially comes with a lower price tag. However, cost savings is not a sufficient or appropriate reason for such a radical shift in the mechanisms of democracy.

8.8. SVAS CONTRIBUTE TO ELECTORAL RESILIENCE, PARTICULARLY USEFUL DURING PUBLIC EMERGENCIES AND CRISES

Health pandemics, security crises and extreme weather events are examples of situations that make holding conventional voting problematic. SVAs can accommodate new and unexpected voting challenges and increase the resilience of the electoral process. Scaling up existing SVAs, rather than introducing new and untested SVAs, is likely the best option.

Legal frameworks should be flexible enough to pave the way for such interventions whenever necessary. Defining the options available during an emergency in law is good practice. Such regulations will clarify how and under what emergency SVA expansion is applicable. Because changes may be rapid, EMBs and stakeholders should strive to engage and educate voters and political parties on changes as much as possible.

8.9. TRANSPARENCY AND COMMUNICATION ARE PARAMOUNT FOR UPHOLDING TRUST IN SVAS

Openness about the pros and cons of any SVA is essential to ensure broad acceptance. Voters deserve complete information on issues regarding voting procedures and subsequent requirements. To achieve this, EMB communication policies should pay attention to SVA special features and adjust strategies accordingly, particularly against disinformation and misinformation campaigns that can emerge from foreign and domestic sources.

An example of SVA transparency is the use of ballot tracking measures. Since voters often lose control over their ballots in these arrangements, information about the ballot journey, including rejected or invalid votes, may support citizen trust and willingness to use a particular SVA.

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8.10. **OBSERVERS HELP WITH ACCOUNTABILITY AND BUILDING TRUST**

Because observers can uniquely convey the legitimacy (if warranted) of the SVA ballot process, there is a need for advanced observer methodology and attention to focus on SVAs. The participation of observation organizations, media and partisan representatives in witnessing SVA processes should be encouraged and facilitated, particularly since smaller organizations or parties may face challenges observing multiple early voting days, mobile voting and other SVAs. Election observer entities and political party monitors should adjust their deployments and tools to the very nature of each SVA. The media should be aware of the challenges in covering SVA implementation.

Given the unique nature of these arrangements, with procedures that depart from the standard and with multiple voting procedures to be used in different locations and moments, observing may become a challenging task, but it is even more critical because laypeople will likely have no access to certain steps of the process.

8.11. **AUDITS PROTECT THE INTEGRITY OF SVAS**

Audits are essential in verifying elections' compliance with the legal framework and the credibility of election results, and in developing lessons learned from previous elections to improve the system. Audits are strategic means to inform an institutional learning process and can be part of a broader post-election evaluation approach.

Well-organized audits should have appropriate and comprehensive terms of reference and competent and impartial auditors, and propose efficient follow-up and accountability measures. Otherwise, audits risk being seen as superficial or inadequate guarantees of integrity. Process audits should point out systemic weaknesses and influence system reform.

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Special voting arrangements (SVAs) are not new. Initiatives to make elections more inclusive and accessible have existed since the earliest days of recognized democratic elections, and a steadily increasing number of nations employ a range of alternatives to conventional voting.

This Handbook seeks to present policy recommendations and good practices to help ensure that SVAs are designed and implemented to ensure electoral integrity. It also seeks to disentangle and dispel some of the myths that develop around SVAs—perhaps unavoidably considering SVAs affect who can vote and how they can vote.

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