

Polls and Elections

The technology of democracy

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II. Table of Abbreviations

ANC	African National Congress
Art.	Article
AWB	Afrikaaner Weerstandsbeweging
Codesa	Conference for a democratic South Africa
DRE	Direct-recording electronic voting systems
e.g.	"example given" (English) or "exempli gratia" (Latin),
E2E	End to End
f.	following
ff.	and following
ID	Identification
IT	Information Technology (Computer sciences)
NCD	National Conference for Democracy
NFC	New federal constitution of Switzerland of April 18, 1999
NP	National Party of South Africa, merged with the ANC on April 9, 2005
SACP	South African Communist Party
Soweto	South West Township (Johannesburg, Gauteng)
SSL	Secure Sockets Layer
UN	United Nations
USA	United States of America

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A Foreword

The purpose of this book is to give an out-of-the-box blueprint of a democratic referendum and election system. The guidelines are the Swiss federal system, the Cantons of Zurich and St. Gallen and the city of Zurich and the municipality of Thal. Not everything is referred to as is; some real-life democratic procedures still have scope for improvement which will be included in the proposals made here.

Many of the examples I have made up myself, taking South African names and places as an example. This was done solely for the purpose of having English-language examples. They bear no relation whatsoever to actual South African polling materials.

B Democratic models used in this book

I have based the examples shown in this book on the following model of a democratic system:

- A federal assembly consisting of a national council which is elected directly by the people, according to national law, and a council of states, which is elected according to provincial legislation.
- A federal council consisting of five to nine national executives which are not elected by the people, but by the federal assembly.
- A provincial council which is elected according to provincial law.
- A provincial executive which is elected according to provincial law.
- National, provincial and municipal referendi on financial matters (expenses, budgets), legislation and international treaties.

Furthermore, in contrast to the present Swiss legislation, in the proposed legislation I have removed the controversial tool of compound lists, sorted the laws and decrees by topics and moved technical provisions to the decree, while moving more fundamental provisions to the law. Furthermore, I have moved up some provincial matters to the federation.

C Drafting a constitution

C.1 The conference for a democratic constitution

C.1.1 Handing over power

Many transitions to democracy (better would be: attempted democracy, as the newly elect president often became a tyrant and absolute ruler) occurred simply by handing over power to the strongest political movement. This is particularly true for those countries where an armed movement exhausted colonial rule or a previous government, such as in Angola, Mocambique or the Mexican Revolution. The previous government hands over power on a silver tray. It remains unclear, whether the victorious movement represents a majority of the people. And it would be naive to expect the new rulers to let other political groups partake in the political power, if they don't have to.

C.1.2 The South African Example

South Africa's transition to democracy (as far as the present status quo may be called so) was initiated on 20 December 1991 by holding a Convention for a Democratic South Africa (CODESA) at the World Trade Centre in Kempton Park. The conference was chaired by three judges. In the first plenary session (Codesa I), working groups were formed to deal with specific issues. Several ultra-right and ultra-left-wing parties boycotted the conference. Shortly after opening the subsequent plenary session (Codesa II), the Boipatong Massacre¹ took place and the ANC withdrew from the negotiations.

Negotiations did not stop, however. Bilateral negotiations between the ANC and the NP continued clandestinely, leading to a "Record of Understanding" between the two key players.

Codesa was followed by the Multiparty Negotiating Forum (MPNF), which had a broader basis of political parties and traditional leaders, but their contribution boiled down to accepting or refusing the "Record of Understanding" between the ANC and the NP. The largest excluded group, the IFP pulled out and only re-joined a few days before the elections and after receiving certain guarantees for their autonomy. The further negotiations were disturbed by the assassination of SACP leader Chris Hani and an armed assault by the Afrikaner Weerstandsbeweging (AWB). Eventually an interim

¹ 46 residents of the township Boipatong were killed by Zulu hostel dwellers. It remains unclear, though, who was the driving force behind the massacre. Some blame the IFP and the government, others the ANC.

Constitution was ratified and a Transitional Executive Council installed to organise and oversee the elections.²

Codesa was one of the few attempts in newer history to let all political powers participate in the creation of a new democratic society. From the mistakes made in South Africa we can learn. A National Conference for Democracy (NCD), as I would like to call this body, has to represent all political parties and factions. If some are excluded, there is a good chance that they will cause trouble very soon or, as in this case the AWB, even assault the conference with heavy weaponry. In Codesa, all negotiation partners came in with long lists of demands to be fulfilled before they would enter into negotiations, which soured relations from the start. In a conference with larger and smaller political movements, there is a certain danger that the two strongest movements bilaterally come to an agreement, leaving everyone else to either join or quit. In the end Codesa failed to serve its purpose. Only the NP, the ANC and the SACP remained and the other political factions were crowded out.

C.1.3 The National Conference for Democracy

In order to implement a democratic system and call together all political powers which might be interested in a transition process, having learned from the shortcomings of Codesa and improved on its design and functioning, we stipulate to call in a National Conference for Democracy.

All major and minor political powers are to be part of it. The conference needs a strong and neutral leader who is accepted by all participants. The conference should be capable of laying the foundations of the new constitution:

- Which political system?
- Direct or indirect democracy?
- How is the division of powers to be achieved?
- Unitary state or a federation? If yes, how many levels of federation? Nation – Province – Municipality or Nation – Province – District – Municipality?
- Is the constitution defining the competences of the federation or the competences of the cantons (with the remainder each left to the other entity)?

² http://en.wikipedia.org/wiki/Negotiations_to_end_apartheid_in_South_Africa (11.07.2009)

- What is to be contained in the constitutions on the different levels of democracy (Nation/Province/Municipality)? How do they interface?
- Law-making on the different levels of democracy (Nation/Province/Municipality)?
- How are elections to be held? Where are majority, where proportional elections held?
- Which civil rights are to be granted in the constitution?
- Which minority rights are to be granted in the constitution?
- How are the elections to be held?
- How is the referendum on the constitution to be held?

Having negotiated all the answers to the questions above, a proposal for a constitution is to be drafted.

D The national referendum on the new constitution

Having drafted a new constitution, a national referendum is to be held. The vote will be a simple “yes” or “no” question, whether the new constitution is to be passed. If the referendum fails, the constitution has to be re-negotiated. The proceedings necessary are described in chapter F.1.1.

Most countries have chosen a different way: They first hold elections and thereafter the victorious political party drafts the constitution. This means, though, that the constitution reflects generally the ideas of that party and it may be used to partition the country and choose election modi which favour the party in power. In the worst case, the newly-elect president drafts a constitution which gives him executive powers, rendering the parliament powerless. It would be much more difficult for a majority party to amend an existing constitution than drafting a favourable constitution in the first place. Drafting the constitution before the elections allows minority groups to entrench their rights in the constitution, while thereafter this might not be possible anymore.

E Forming the Legislative Body

A decision will have to be taken whether a single-chamber-system, a dual chamber system (as is usually the case, in this example a national council and a council of states) or a multi-chamber-system (like the old South African tricameral parliament).

Furthermore, it is to be decided whether the chambers will be headed by a single, powerful, president, by a chancellor or by an executive board.

Single-chamber parliaments have the disadvantage that they offer no corrective for the dominance of densely populated areas. This causes a permanent disadvantage of rural areas, although they might be rich in mineral or agricultural resources. In the worst case, a region creates all the country's wealth but has hardly any political say. Another possible constellation is a homogenous minority group living in a province of their own, but small in numbers. The populous provinces could decide on eradicating their identity, marginalising them politically. For this reason, Switzerland has a larger National Council, where the representation is proportional to the population and a smaller Council of States where the representation is for all regions equal. A draft bill has to pass through both councils in order to become a law.

Some bicameral parliaments were created for different reasons. The upper house in England is a type of corrective to the lower house, whereas the gentry acts as a corrective to the commons.

Multicameral parliaments are usually the result of the attempt to accommodate several cross-cutting minorities. Very few examples exist.

F Referendums and elections

F.1 How to vote and elect

F.1.1 Holding a vote

Every citizen who is of age (18 years), for a minimum period of three months resident of the canton/province and not declared "unfit to vote" has the right to vote and elect. Everyone fulfilling the above conditions has to register - upon taking up residency in the municipality - as a voter. These registers are public and best published on the internet, provided there are safeguards against misuse. The registers are closed on the Friday preceding the vote or election. Every voter receives a registration card latest four days before the vote/election is held. Any voter who has not received his registration card by Wednesday before the vote/election has to report this to his electoral office. The registration card has to be dated and signed.

The voter's registration contains a list of the location and opening hours of the polling stations. For practical reasons, most polling stations are open on Saturday from 18 to 20 hours and on Sunday from 10 to 13 hours.

Ballot cards of persons related by birth, marriage or adoption, of persons of more than 60 years of age³ or of persons who are certified ill or disabled⁴ may be taken in by another voter. Only one additional (substituted) vote may be cast.

The ballot cards are usually found in a special envelope. The ballot cards have to be filled in legibly by hand (ink, pencil etc.). A ballot card is void if it contains other remarks than "Yes", "No" or a candidate's name or if it is filled in by typewriter, computer printer etc. In elections there are sometimes funnymen who write down "Donald Duck" or "Michael Jackson" on their ballot cards. These votes are valid, if by any chance an eligible person of this name is found to be a resident of the electoral district.

At the polling station, the voter's registration is to be handed in and the envelope with the ballot cards cast in the ballot box. Alternatively, the vote may be mailed in, preferably a couple of days before the deadline.

Every ballot is to be held under the supervision of public bodies, which usually represent all parties in their respective strength. Every step of an election is to be double-checked, making it difficult to beat the system.

F.1.2 Votes and Referendi

Votes and referendi in direct democracy usually just leave the answers "yes" or "no". The questions have to be formulated accordingly and may not be misleading (for instance, "do you want not to accept the following proposal?"). Votes are held on financial matters (e.g. "do you approve the expenditure of Rand 50'000'000 for a new soccer stadium?"), on laws ("do you want to approve the new law about transparency on financial matters?"), on sections of laws ("do you want to change section 153 of the criminal code to the following wording...[?]"), on constitutional matters ("do you want to change section 15 of the constitution as follows...[?]") etc. Answers other than "yes" or "no" are not permissible, but the ballot card may be left blank.

³ Substitution A

⁴ Substitution K

City of Mulderspoort

OFFICIAL BALLOT CARD
Vote of October 28, 2002

3

Do you agree with the construction of a new soccer stadium at the cost of R 50'000'000?

image 1: Blank ballot card

F.1.3 Majority elections

Majority elections are usually “personality elections” whereas the candidate attracting the most votes is declared elected. The ballot cards usually just have blank lines where the names of the candidates are to be written. In undisputed cases the names of the candidates are preprinted. In most majority elections, an absolute majority is requested.

Bapetikosweti Province

OFFICIAL BALLOT CARD
Ballot of March 12, 2000

1.

2.

3.

4.

5.

6.

7.

Election of 7 members of the
 provincial executive
 (In office 2000-2004)

image 2: Ballot for majority elections; in undisputed cases, they may be preprinted

The absolute majority is calculated as follows: Number of votes divided by two, rounded to the next higher number, plus one. If no candidate reaches the absolute majority, a second vote - and if this proves to be indecisive, a third vote - is held, in which the candidate with the relative majority (the candidate with the highest number of votes) is elected. A disadvantage of the majority system is the poor representation of minorities.

Example:

Seats: 2

Votes cast: 215

Candidate A: 123; Candidate B: 102; Candidate C: 53; Candidate D: 107

Absolute majority: $(215/2)+1 = 109$ votes

Elected is: Candidate A, second vote required for second seat

F.1.4 Proportional elections

Proportional elections are usually "party elections". There are pre-printed ballot cards for every registered party that takes part in the elections. The seats are distributed amongst the political parties according to the number of votes (empty and candidate votes), while the remaining seats are distributed according to one of the two existing systems. The candidates with the most votes within the party or list fill the available

seats in the order of their respective votes. A candidate can be accumulated, this means he can be elected - depending on the by-laws - twice or thrice on the same list. A candidate is only allowed to appear on one list. Empty lines on a list count as blank votes for the party. The voter can cross out candidates, accumulate candidates, or write down candidates from other lists.

City of Mulderspoort

OFFICIAL BALLOT CARD

Election of 10 members of the
municipal council

List. No.	Description
2	Free Democrats
02.01	Nkosi Zacharias, 1975, Welder, 185 Main Street, (previous)
02.02	Tshabalala Johannes, 1970, Businessman, 22 Jeppe Street, (previous)
02.03	Van Rensburg, Tony, 1962, Accountant, 15 Park Avenue
02.04	Thswala, Stephen, 1972, Teacher, 17 Jacaranda Street
02.05	Costa, Lourenço, 1950, Businessman, 2 Station Street
02.06	Moodley, Sri, 1978, Accountant, 120 Pritchard Street
02.07	Makgotle, Johannes, 1974, Car Mechanic, 90 Durban Street
02.08	Njongué, Frédéric, 1955, Accountant, 27 Faraday Street
02.09	Naidoo, Kumar, 1944, Businessman, 22 Ford Ave.
02.10	Coetzee, Gerd, 1961, Police Officer, 37 Pritchard Street

image 3: Proportional election list

F.2 Preparing a Ballot

The dates of the provincial referendi and the elections in the province are set by the provincial government. Elections, referendi, silent elections and by-elections are to be published in the official provincial gazette a certain period before the ballot.

The provincial executive ensures that provincial and federal matters may wherever possible be voted upon at the same time. If some mandates become vacant after general elections, the department in charge (in the case of a municipality the municipal council) sets a additional election date.

All polls and elections are to be prepared by the respective municipalities. The voter's roll for federal, provincial and municipal elections is to be kept and maintained by the

municipalities. Voters and the department in charge are to be granted access to the voter's roll if so requested⁵.

The voter's registration card contains surname, first name, date of birth and residential address of the person entitled to vote, as well as the date of the ballot. It is only valid for the ballot specified⁶. If e-voting is available, it has to bear login and password for the internet voting platform. If a system with access card and card reader is used, every voter partaking must be equipped with the necessary hardware.

<p>MULDERSPOORT MUNICIPALITY <u>Gauteng Province</u></p> <div style="border: 1px solid black; padding: 5px; width: fit-content;"> <p>P.P. Johannesburg 2000</p> </div> <p>Phineas Mphalele 159 D.F. Malan Drive Mulderspoort 2047</p> <p>Voter's Registration Ballot of July 26, 2009</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Declaration: I am voting by mail or not personally</p> <p>.....</p> <p>(signature)</p> </div>	<p>Please cast your ballot as follows:</p> <ul style="list-style-type: none"> - Only use official ballot cards and fill them in personally and by hand - Do not fold the ballot cards. Don't tear perforated ballot cards apart. This is easing the work of the election office. <p>Personally casting a ballot</p> <ul style="list-style-type: none"> - Drop your ballot card personally into the ballot box - Take note of the opening hours of the polling stations - Take your voter's registration along and hand it in at the polling station <p>Surrogation on casting the ballot (see reverse)</p> <p>Voting by mail (see reverse)</p> <p>Please take note of these rules or your vote may be void!</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Opening hours:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Mandela Square</td> <td>25.7.09 08:00-18:00</td> </tr> <tr> <td></td> <td>26.7.09 11:00-13:00</td> </tr> <tr> <td>15 D.F. Malan Drive</td> <td>25.7.09 08:00-17:00</td> </tr> <tr> <td></td> <td>26.7.09 11:00-13:00</td> </tr> <tr> <td>254 Booysens Rd.</td> <td>25.7.09 13:00-18:00</td> </tr> <tr> <td></td> <td>26.7.09 10:00-13:00</td> </tr> </table> </div>	Mandela Square	25.7.09 08:00-18:00		26.7.09 11:00-13:00	15 D.F. Malan Drive	25.7.09 08:00-17:00		26.7.09 11:00-13:00	254 Booysens Rd.	25.7.09 13:00-18:00		26.7.09 10:00-13:00
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	26.7.09 11:00-13:00												
254 Booysens Rd.	25.7.09 13:00-18:00												
	26.7.09 10:00-13:00												

image 4: Voter's registration

The municipal council elects the members of the election office. The political parties are to be represented evenly amongst them. The members may not partake in matters concerning themselves, e.g. when they are candidates themselves⁷.

If there is a shortage of members, the staff may be supplemented by non-members, which may assist in menial work only. The use of computers is permitted⁸.

Any person entitled to vote may cast his vote by letter, if it is accompanied with a signed voter's registration and posted sufficiently ahead of time to reach the election office

⁵ Art. 4 to 5bis, Gesetz über die Urnenabstimmungen St. Gallen, sGS 125.3

⁶ Art. 5ter, Gesetz über die Urnenabstimmungen St. Gallen (law on the ballots), sGS 125.3

⁷ Art. 9, Gesetz über die Urnenabstimmungen St. Gallen (law on the ballots), sGS 125.3 does not extend this to the chairman of the election office, which is in my opinion wrong.



image 5: Cover of a Swiss federal ballot brochure



image 6: Contents of a Swiss federal ballot brochure

⁸ Art. 10, Gesetz über die Urnenabstimmungen St. Gallen (law on the ballots), sGS 125.3

before the final close of the ballot. Before the election weekend, the mailed-in ballots are to be stored in a locked container⁹.

Where available, the voters are entitled to vote per e-voting via the internet. The equipment necessary includes a device connected to the internet, such as a personal computer or an internet-enabled cellphone or game console running an internet browser.

F.2.1 Voting papers

The voters must be in possession of the voting papers a certain period before the ballot. The voting papers include information on the ballot to be held, the ballot cards, the voting card, information on locations and opening times of the local polling stations, information on alternative modes of voting such as postal or e-voting and an election guide.

The ballot card is marked "ballot card" and contains the municipality, the date and subject of the vote. In referendi, the ballot card contains the voting issue and for each question a checkbox labeled "yes" and one labeled "no" or sufficient space to answer; in majority elections it contains as many blank lines as seats are to be elected and in proportional elections it contains the officially published electoral lists of nominations along with a blank list.

F.3 Organisation of electoral offices

F.3.1 An electoral office in a major city¹⁰

Each city district has its own electoral office, which consists of about 700 members, elected (rather: appointed, as any applicant is usually confirmed) by the city council. It is of utmost importance, that the members of the electoral office represent the different political parties in order to ensure that no "inside jobs" remain undetected when counting ballots. It is of equal importance, that the teams allocated to the individual tasks again represent as many political parties as possible in order to create checks and counter-checks. The electoral office is chaired by a committee of four members: chairman, deputy chairman, secretary and deputy secretary. They preside over the counting table supervisors, office staff and ballot box supervisors. The table supervisors have about 500 staff counting votes, including 120 IT and proportional elections

⁹ Art. 16ff., Gesetz über die Urnenabstimmungen St. Gallen (law on the ballots), sGS 125.3

¹⁰ Roughly after the example of Zurich-Wiedikon

specialists. The office staff consists of about 50 specialists for administration, protocols, transports, totalling, fund administration, counting machines and archive.

A central electoral office, consisting of the mayor, the city secretary and the chairmen of the district electoral offices and of the municipal chancellery form a supervisory body. There is also non-official staff assisting in administrative functions and counting of votes. They are, however, not allowed to supervise ballot boxes.

F.3.2 An electoral office in a rural village

The electoral office mirrors the above office in a major city with the difference that the organisation is generally much simpler than in urban areas. The electoral office consists of anything between a handful and a couple of hundred members, who are confirmed by the municipal council. It is chaired by a committee of two to four members.

F.4 Polling stations

F.4.1 Ballot Box Supervision

The committee of the district electoral office appoints for each polling station, a chief supervisor plus two to four members of the electoral office as ballot box supervisors. Usually, two to three chief supervisors and eight to ten supervisors are allocated to one polling station and called in turns, in order to reduce their duty to about twice a year. Several weeks prior to elections, the secretary of the electoral office calls the ballot box supervisors in order to make sure that they are available. They receive a written invitation at latest three weeks prior to polls. The supervisor makes sure that law and order in the polling station is obeyed, subordinate supervisors are aware of their duties, the laws regarding collection of signatures for referendi in polling stations are obeyed. He decides, when in doubt, whether a person is entitled to vote and ensures that the secrecy of the ballot is adhered to. He informs the committee about any unusual occurrences at the ballot station.

The chief supervisors receive latest on Friday before a planned ballot, a folder with the following items:

- A letter with special instructions
- A roster indicating the deployment of supervisors
- Keys for polling station and ballot boxes

- Reimbursements for themselves and the staff including the caretaker of the polling station
- Forms to protocol the voter's registrations
- Receipt forms for reimbursements
- Paper seals for sealing the ballot box
- Rubber bands to bundle the voters registrations
- Documentation and decrees necessary

Last-minute directives may be conveyed by phone, e-mail, SMS, cell phone etc. It is the duty of the chief supervisor to inform his subordinates about them.

F.4.2 Preparing the polling stations

Polling stations may, for instance, open on Saturday from 12.00 to 18.30 hours or from 18 to 20 hours and on Sundays from 10.00 to 13.00 hours, whereby if several polling stations are manned, they can operate in shifts, not requiring all polling stations to be open at the same time. The following duties are required in the order shown below:

- Placing the ballot boxes in the order indicated by the committee
- Preparing ballot boxes by sealing them with a paper seal that has been signed by two supervisors, locking them and sticking sample ballot cards on.
- Instruction of supervisors
- Opening of the ballot station.

In order to avoid unnecessary complaints, the opening hours are to be strictly adhered to.



image 7: Polling station in Melaka, Malaysia

F.4.3 Casting the ballot

The voters have to hand in the voter's registration card first. The supervisors check, whether the registration is valid and whether - if the person is taking in a vote for somebody else - the respective laws are obeyed. Every 50 voter's registrations are bundled up and kept in a container. The voter's registrations are to be counted and kept separately for every day.

If the ballot cards are cast in a sealed envelope (which should be the rule), they are to be opened and ascertained that there are not more than one ballot card per topic and envelope¹¹.

Towards the end of the opening hours of the polling station, the chief supervisor checks whether there are still persons who want to cast a vote near the polling station. If this is not the case, the polling station is closed. The ballot boxes are locked and the total of voter's registrations protocolled on the respective form. On Saturdays, the chief

¹¹ In case that every ballot card is cast in a separate ballot box and there are several possible ballot cards for one vote, for instance in proportional elections, the ballot card is to be stamped on the reverse side.

supervisor keeps the keys for the ballot station. On Sunday morning, the ballot box is opened under the supervision of the other supervisors, breaking the paper seal. It is subsequently checked for irregularities, closed and secured with a new paper seal with two signatures.

On Sunday night, after a last check for late voters, the polling station is closed. The ballot boxes are locked and made ready to be picked up. The chief supervisor reimburses his staff and the caretaker, who will acknowledge receipt on the respective form and subsequently be discharged. The chief supervisor then waits for the transport official to pick up the ballot boxes and hands the folder and the keys over to him. He accompanies the ballot boxes, until they are received by a committee member of the electoral office.

F.4.4 Canvassing at the polling station

Collecting signatures for petitions, popular initiatives and referendi is allowed in the perimeter of polling stations. The teams collecting signatures should inform the caretaker of the building in advance though, in order to prevent more than two teams collecting signatures at a polling station. The chief supervisor may issue directives concerning the collection of signatures at the ballot station. Only voters who have already cast their vote may be canvassed. They must not be harassed or obstructed. The municipality has the right to ban canvassing from certain areas.

F.4.5 Substitution

Taking in somebody else's ballot cards is to be made subject to strict control. Any person entitled to vote may take in one additional ballot card. Such substitution is only permissible, if he or she is a member of the same family, living in the same house or if he or she is living in the same ward and either past the age of 60 or in possession of a doctor's certificate of illness. Voter's registrations of persons past the age of 60 are marked with a capital A. Permanently sick persons can deposit a doctors certificate with the municipality and will receive a voters registration marked with a capital K.

F.5 Delivery of ballot boxes to the election office

F.5.1 Delivery of ballot boxes

The ballot boxes are delivered by lorry. They are opened under the supervision of several members of the electoral office and emptied on one of the tables. Opening the ballot boxes is usually a crucial moment, because if there are not sufficient witnesses,

somebody could theoretically add or remove ballot cards, thus changing the outcome of the ballot.

F.5.2 Pre-sorting

In case the ballot cards were cast in envelopes, the envelopes are to be opened at the pre-sorting table, its contents removed and checked whether there are double ballot cards. If such are found, the excessive cards are to be removed and stamped “void”. The void ballots are to be bundled, separately by type, in stacks of 20 or 50 and strapped together with a rubber band.

The ballot cards are sorted by type. Usually, different ballot cards can be recognised by shape, colour or size.

In most cases, elections and referenda are held at the same, in order to avoid inefficiencies.

F.6 Counting Votes – Referendi

The referenda are separated by topics – usually they are recognized either by colour or by cutouts at the edge of the ballot cards. Then the “yes” and “no” votes are separated and counted with a money bill counting machine. They are bundled in stacks of 30 each.

City of Mulderspoort

OFFICIAL BALLOT CARD
Vote of October 28, 2002

3

Do you agree with the construction of a new soccer stadium at the cost of R 50'000'000?

NO

image 8: Referendum ballot card

The number of bundles plus the remaining ballots are entered on a totalling sheet and added up.

City of Mulderspoort
Vote of October 28, 2002 - Soccer Stadium

3

Totalling form No.1.....

Bundle	Bundles @ 30	Incomplete bundles (votes)	Total votes
Yes	21	15	645
No	12	29	389
Void	1	4	34
Blank	1	18	48
Counted by	B. Leneel		Checked by C. Pinheiro

image 9: Totalling sheet

F.7 Counting Votes - Majority Elections

Bapetikosweti Province

OFFICIAL BALLOT CARD
Ballot of March 12, 2000

Election of 7 members of the
provincial executive
(In office 2000-2004)

1. Spokes Mochiane, Sphintown
2. Nkosi Ramakla, Johannesburg
3. Kgosana Sello, Soweto
4. Sisiula Joseph, Orange Grove
5. Ziqubu Conday, Soweto
6.
7.

image 10: Majority election ballot

Bapetikosweti Province

OFFICIAL BALLOT CARD
Ballot of March 12, 2000

Election of 7 members of the
 provincial executive
 (In office 2000-2004)

1. Ramatta Nkosi, PP, 1959, Lawyer, 159 Pritchard Street
2. Kgosana Sello, PP, 1951, Fiberglass Moulder, Sector 159, Unit 22
3. Sisulu Joseph, SDP, 1969, 159 Orange Grove Road
4. Van Rensburg, Kobus, NDP, 1971, 12 Langlaagte
5. ~~Zigubu, Gondry, NPA, 1955, Sector 22, Unit 175~~ *Bezuidenhuys, Evita*
6. ~~Naidoo, Xavier, PP, 1979, 15 Fordsburg Ave~~
7. Meyers, Herbert, NPA, 1932, 12 Samora Machel Ave.

image 11: Preprinted majority election ballot

F.7.1 Regularization

The ballot card is edited with a red pen, crossing out accumulated and excess votes (which are prohibited in majority elections) and marking void and solitary votes. Empty and void ballot cards are sorted out and kept separately.

An official candidate is a person publicly mentioned as a candidate. The state chancellery issues a list of the official candidates which are to be counted individually.

Accumulated votes (names that are written more than once on a single ballot card) are not permissible in majority elections. Thus only the first instance counts, while all the subsequent instances are void.

Furthermore, votes for persons who are not eligible, count also as void, such as practical jokes (like Mickey Mouse etc), first names without surnames, badly misspelled names which do not allow to determine the intention of the voter or surnames without first names if there are several candidates of the same surname. Void votes are marked on the left margin with a "V".

Names of not officially mentioned, but eligible candidates are called solitary votes. They are marked at the left margin with a "T". Theoretically it is possible that a person, who is

not an official candidate, is elected. Thus when there are indications that a large number of “I” votes for a certain person are cast, they have to be counted too¹².

If there are more names than lines on the ballot card, the excess votes are eliminated by crossing them out starting from the bottom, until the valid number of candidates is reached.

Empty or crossed out lines (see accumulated votes) do not count.

Void ballot cards are ballot cards filled in with typewriter, ballot cards with items stuck on with glue, ballot cards containing void votes only, ballot cards with insults and comments. They are collected separately.

F.7.2 Bundling the ballot cards

Every 30 ballot cards are counted with a counting device (usually a money counter) and strapped together with a rubber band. Empty ballot cards are counted separately. Void ballot cards are counted separately.

F.7.3 Registering

A blank counting form is strapped to every bundle. The bundle is registered at the control officer as entry. When it is given to the counting table it is registered as pending until it returns.

F.7.4 Counting

All notes are done in pencil in order to facilitate the correction of adding errors. First, the ballot cards need to be numbered in the top right corner from 1 to 30. The cast votes are noted as follows on the counting form: An I-shaped line if a vote in favour of the candidate, blank if no vote for the candidate is cast. The field for the solitary, blank and void votes, contains their respective number in Arabic figures. The horizontal checksum is: Votes for candidates + solitary votes + void votes + blank votes = Number of lines on a ballot card. The counting form is added horizontally, whereby zero has to be written down as 0. The last column is added vertically. The result must be equal to the multiplication of (Number of ballot cards * Number of lines on a ballot card). The person counting signs the counting form at the bottom right and writes his or her name

¹² This happened in Zurich during the first Iraq war, when so many persons jokingly voted for “Norman Schwartzkopf “ (a US general at the time), that those votes had to be counted, as there was a good chance that a person of the same name was living in Zurich.

in print letters. The ballot cards with the counting form on top are strapped together with a rubber band and handed over to the supervisor of the table.

Bapetikosweti Province
7 members of the provincial executive / March 12, 2000

Counting Form No. 86
Number of ballot cards: 30

Protocolling: N Negative (mark crossed out); P Positive (mark votes)

		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	Tot.	
1. Ramalla	P	/			/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	20
2. Kgosana	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	28
3. Sisulu	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	27
4. Van Rensburg	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	22
5. Ziqubu	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	21
6. Naidoo	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	13
7. Meyers	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	11
Soltary	P	2	1								1	1	1	1	1	1							2	1									14
Blank	P	2	4		2	2	5	1	3	3	1	4	1			2	2	1					4	3	1	1	2				3	2	49
Void	P			3					1														1										5
Checksum		7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	210
Counted by	<i>B. Level</i>										Checked by	<i>K. Zulu</i>										Transferred by											

image 12: Positive counting form for majority elections

Bapetikosweti Province
7 members of the provincial executive / March 12, 2000

Counting Form No. 12
Number of ballot cards: 30

Protocolling: N Negative (mark crossed out); P Positive (mark votes)

		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	Tot. Neg.	Tot. Pos.		
1. Ramalla	N	/																								/		/					3	27	
2. Kgosana	N	/				/																	/										3	27	
3. Sisulu	N							/		/														/	/					/			5	25	
4. Van Rensburg	N				/	/	/	/	/	/					/								/			/							8	22	
5. Ziqubu	N	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	6	24	
6. Naidoo	N			/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	1	6	24
7. Meyers	N	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	8	22	
Soltary	P	/			/					2	/	/	/	/	/	/							2	2	/					2			15		
Blank	P	2	1	1	1	2	1	1	/	/	/	/	/	/	/	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	22		
Void	P																						/	/									2		
Counted by	<i>B. Level</i>										Checked by	<i>M. Zuma</i>										Transferred by													

image 13: Negative counting form for majority elections

F.7.5 Verification of counting forms

At a separate table, all entries and additions on the counting forms are systematically verified.

F.7.6 Corrections

Any counting form rejected by the verification team is returned to the counting table for correction.

F.7.7 Manually adding counting forms

The totals from counting forms are transferred to totalling forms and added up. A second person counter-checks the transfers to and additions on the totalling forms. The totalling forms are then added up. A second person checks the additions.

F.7.8 Computerized addition of counting forms

The counting forms are entered into a computer, preferably in a spreadsheet such as Microsoft Excel or Open Office Calc, added up, printed and signed. A second person double-checks the counting forms against the printout.

F.7.9 Determining the elected candidates

The empty lines on the ballot card equals the number of vacant seats. The candidates who have reached the absolute majority, will be allocated to those seats in the order of the number of votes cast for them.

F.8 Counting Votes - Proportional Elections

F.8.1 Sorting

At the sorting table, two separate stacks are made for each list number, one for changed and one for unchanged lists. They are bundled in stacks of 30 lists, a cover sheet is added and the bundles strapped together with a rubber band.

OFFICIAL BALLOT CARD		City of Mulderspoort
List. No.	Description	Election of 10 members of the municipal council
2	Free Democrats	
02.01	Nkosi Zacharias, 1975, Welder, 185 Main Street, (previous)	
02.02	Tshabalala Johannes, 1970, Businessman, 22 Jeppe Street, (previous)	
02.03	Van Rensburg, Tony, 1962, Accountant, 15 Park Avenue	<i>Tshabalala Johannes</i>
02.04	Thswala, Stephen, 1972, Teacher, 17 Jacaranda Street	
02.05	Costa, Lourenço, 1950, Businessman, 2 Station Street	
02.06	Moodley, Sri, 1978, Accountant, 420 Pritchard Street	
02.07	Makgotle, Johannes, 1974, Car Mechanic, 90 Durban Street	
02.08	Njongué, Frédéric, 1955, Accountant, 27 Faraday Street	
02.09	Naidee, Kumar, 1944, Businessman, 22 Ford Ave.	<i>Njongué Frédéric</i>
02.10	Geetze, Gerd, 1961, Police Officer, 37 Pritchard Street	

image 14: Party list with accumulations and deletions, proportional elections

F.8.2 Clearing

Every two persons sitting side by side work together. With a red pen, they cross out spare accumulated and excess votes, and mark void and solitary votes. Then the number of blank votes is written on the ballot card. Blank votes plus votes for candidates have to equal the number of lines on the ballot card.

Official candidates are all persons, who registered themselves at the state chancellory on an official form, which is to be supplemented with a minimum of 15 signatures of persons entitled to vote.

In proportional elections, accumulated votes (names of candidates appearing more than once on a single list) are permissible. Usually a candidate can only be accumulated once, meaning that he may appear not more than twice on a list.

Void votes are names that are written illegibly or in a manner that makes it impossible to tell which candidate is meant; names of persons not officially registered as candidates; excess accumulations and excess votes, counted from the bottom.

Empty or crossed out lines are blank votes.

Ballot cards filled in with typewriter, stuck with glue, with void votes only, insults and comments are void. They are collected separately.

F.8.3 Checking

The candidates- and blank votes are checked. If necessary, they are corrected.

F.8.4 Bundling the ballot cards

Every 30 Ballot cards are counted with a counting device and strapped together with a rubber band. Empty and void ballot cards are each counted and bundled separately.

F.8.5 Registering

The number of empty and void ballot cards is entered immediately on the respective lists. The remaining ballot cards are to be processed.

A blank counting form is strapped to every bundle. The bundle is registered by the control officer and when given out to be counted marked on the list as pending.

F.8.6 Counting

All entries on the counting form or the ballot cards are done with pencil. First, the ballot cards are numbered in the top right corner from 1 to 30. The votes cast are noted on the counting form: An I-shaped line for a vote in favour of the candidate, blank if no vote for the candidate is cast. The field for the solitary, blank and void votes contains their respective numbers in Arabic figures. The horizontal checksum is: Votes for candidates + solitary votes + void votes + blank votes = Number of lines on a ballot card. The counting form is added horizontally, whereby zero has to be written down as 0. The last column is added vertically. The result must be equal to the number of ballot cards multiplied by the number of lines on a ballot card. The person counting signs the counting form at the bottom right and writes his or her name in print letters. The ballot cards with a counting form on top are strapped together with a rubber band and handed over to the supervisor of the table.

As in proportional elections, it is permissible to vote for candidates of another list, the counting form lists all candidates.

City of Mulderspoort - Election Office *D.F. Malan Ave.* Counting Form No. *13*
 Election of 10 Members of the municipal council / March 12, 2000 Number of Ballots: *27*

Ballot card No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	Tot.		
1 People's Party																																	
01.01 Dhlamini Paul	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	32	
01.02 Foster Alfred	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	25	
01.03 Chetty Morgan	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	24	
01.04 Barnes Karen	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	23	
01.05 Govere John	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	18	
01.06 Kunene Simon	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	20	
01.07 Mthembu Joth.	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	19	
01.08 Wickham Terry	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	16	
01.09 Mbuzza Aaron	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	11	
01.10 Phelps, Chris	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	7	
Blank votes	0	0	7	0	0	0	1	0	0	1	0	1	0	2	4	0	0	0	0	2	0	8	3	4	4	2	4	3				46	
2 Free Democrats																																	
02.01 Nkosi Zach.													/									/			/								3
02.02 Tshabalala Joh.	/	/																									/						3
02.03 Van Rensburg																												/					1
02.04 Tshwala Steph.										/													/					/					3
02.05 Costa Lourenço										/																							1
02.06 Moodley Sri																/																	1
02.07 Makgotle Joh.																																	
02.08 Njongué Fred.																																	
02.09 Naidoo Kumar																																	
02.10 Coetzee Gerd																																	
Blank votes																																	
3 National Democrats																																	
03.01 Joseph Nadine			/				/																										2
03.02 Devanand Patr.																							/										1
03.03 Mabunde Sam.												/																					1
03.04 Mehta Ushma																							/										1
03.05 Mhaki Charly																	/																1
03.06 Perel Jack	/																/																2
03.07 Alibhai Yasmin.																	/																1
03.08 Seepe Sipho																	/																1
03.09 Mangcu Xolela																																	
03.10 Pahad Azim																																	
Blank votes																																	
4 Social Democrats																																	
04.01 Minty Zaid	/	/										/																					3
04.02 La Grange Jac.																																	
04.03 Kruger Fred																	/																1
04.04 Sharp John																																	
04.05 Coovadia Ismail							/																										1
04.06 Lazarus Alison																																	
04.07 Power Piara.																																	
04.08 Phasha Lion																	/																1
04.09 Machogo Th.																	/																1
04.10 Omar Jusuf																																	
Blank votes																																	
Totals																																	270
Counted by <i>B. Huil</i>	Checked by <i>H. van Tolander</i>															Captured by																	

image 15: Counting form proportional elections

F.8.7 Checks on counting

Every counting form is checked systematically at a separate table, whether the entries and the additions are correct. This is to ensure that there are no irregularities, either by mistake or by design.

F.8.8 Corrections

Rejected counting forms are to be rectified, depending on the size of the election office, either by the person who counted it in the first place or by a separate table which does corrections only. This can also be handled pragmatically, for instance that there is a separate corrections table only during peak hours.

F.8.9 Totalling manually

The totals from the counting forms are to be transferred to totalling forms and added up. This process is again to be checked by a different set of people. The totalling forms are to be added up and counter-checked.

F.8.10 Totalling by computer

The data is to be entered from the counting forms into a computer, for instance an Excel or Open Office Calc spreadsheet. The spreadsheet is to be printed and counter-checked manually by a different team. Computerized calculations bear a particular danger of being doctored, which makes accurate and thorough checking imperative.

F.9 Seat Distribution

F.9.1 Example 1 (separate lists)

Total seats: 10

The votes for the individual parties are in column (A). The total number of votes, including empty lines and party-independent candidates are divided by the total number of seats plus one, resulting in the coefficient (B). Column (A) is divided by column (B) and the rounded off integer resulting is in column (C). This is the first provisory distribution, as only 9 of the 10 seats could be allocated. To allocate the 10th seat, the following steps have to be taken.

The votes divided by the already allocated seats in column (C) plus one result in a rounded-off integer shown in column (D). The highest figure in column (D) receives the remaining seat (E) which is added to the first distribution. The total number of seats is shown in column (F).

Separate lists	first distribution			second distribution		
	A	B	C	D	E	F
	votes	votes/(total seats+1)	seats	votes/(seats+1)	remaining seats	total seats
Party A	190	41.64	4	38.0	1	5
Party B	111	41.64	2	37.0	0	2
Party C	107	41.64	2	35.7	0	2
Party D	50	41.64	1	25.0	0	1
Total	458	-	9	-	1	10

F.9.2 Example 2: Compound lists

Total seats: 10

The lists of Parties B and C are related or compounded. This means that any votes towards remaining mandates drawn by party B are pooled together with party C. The institute of compound lists is quite controversial and may disappear altogether in the near future.

The votes for the individual parties are in column (A). The total number of votes are divided by the total number of seats plus one, resulting in the coefficient (B). Column (A) is divided by column (B) and the rounded off integer resulting is in column (C). This is the first provisory distribution, as only 9 of the 10 seats could be allocated. So far, everything is the same as above.

The votes divided by the already allocated seats in column (C) plus one result in a rounded-off integer shown in column (D), whereby the votes and allocated seats for party B and C are added. The highest figure in column (D), which is now to the favour of party C, receives the remaining seat (E) which is added to the first distribution. The total number of seats is shown in column (F).

Linked lists	first distribution			second distribution		
	A	B	C	D	E	F
	votes	votes/(total seats+1)	seats	votes/(seats+1)	remaining seats	total seats
Party A	190	41.64	4	38.0	1	4
Party B	111	41.64	2	-	0	2
Party C	107	41.64	2	43.6	1	3
Party D	50	41.64	1	25.0	0	1
Total	458	-	9	-	1	10

G Electronic Voting

G.1 Introduction

Electronic voting (or e-voting, as it is generally referred to) is referring to electronically casting a vote. Some sources also include punch cards, optical scan voting systems and voting kiosks¹³. Although it facilitates counting, it makes manual checks on the electoral process difficult to impossible and thus bears a certain danger of electoral fraud. While scanning and punch cards are widely used, allow manual checks and do not differ considerably from manual processes, the focus in this chapter remains on Direct Recording Electronic Systems (DRE) and Internet voting.

To ensure that the ballots are recorded correctly, cryptography, hardcopies, audio verification, dual recording and witness systems are used.

Many countries, like Australia, Belgium, Brazil, Canada, Estonia, Finland, France, Germany, India, Ireland, Italy, Netherlands, Romania, Switzerland, United Kingdom and the USA have already partially or completely implemented electronic voting systems¹⁴.

¹³ http://en.wikipedia.org/wiki/Electronic_voting

¹⁴ http://en.wikipedia.org/wiki/Electronic_voting_examples

In Switzerland, several models of e-voting are being tested. While the city canton of Geneva uses a unitary system, where the canton uploads the register of the voters into the electronic voting platform, the canton of Neuchatel is using the “Guichet Unique” system, similar to electronic banking, where users have to sign a contract. The canton of Zurich uses a system where every municipality gets its own section where it may upload the register of voters and the voting topics. A survey came to the conclusion that more than half of the voters would make use of electronic voting. E-Voting is cheaper than manual voting with savings per vote of around CHF 1.61. The cantons are also envisaging electronic signing of initiatives and referendi.¹⁵ In the canton of Zurich, the voters receive a PIN code, which is imprinted under a seal, which may be scratched off, on the voter’s registration. If a voter appears at the ballot station with a broken seal, the tellers will check immediately either via the internet or by calling the election office, if the online vote has been cast. After closing of the ballot boxes, the election office logs onto the e-voting system and determines the results. The data is then kept in a safe until the result of the ballot has been verified. Thereafter, the data is destroyed.¹⁶

G.2 Direct-Recording Electronic Voting Systems (DRE)



DRE machines are used in Brazil, India, USA and Venezuela, while they have been decommissioned in the Netherlands after public concerns. A DRE voting machine typically consists of a ballot display with pushbuttons or touchscreen technology to record the ballot cast. The ballots

cast are stored electronically and as a printed hardcopy. Typically, the DRE transmits the results to a central location for consolidation¹⁷.

The advantages reported are easy access for handicapped people (in particular blind voters by including speech functionality), multi-language setup, immediate feedback and determination of under- and overvoting. The actual major advantage is, though, that the votes can be electronically counted.

¹⁵ Klaus, Max, E-Voting in der Schweiz; NZZ of April 1st, 2007, In kleinen Schritten zum e-Voting

¹⁶ Staatskanzlei des Kantons Zürich, Verfahren für die Pilotabstimmungen mit e-Voting festgelegt

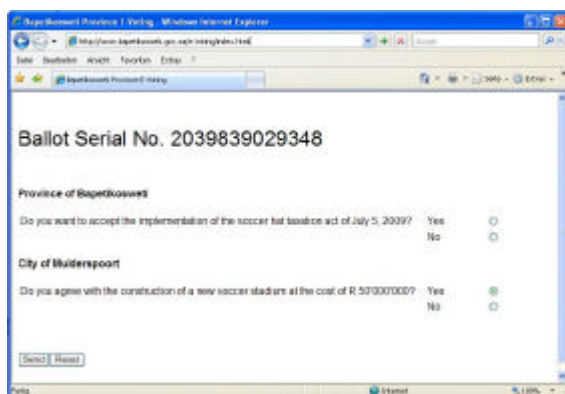
¹⁷ http://en.wikipedia.org/wiki/DRE_voting_machine, 13.10.2009

G.3 Internet voting

Internet voting systems have been used in Canada, Estonia, France, Switzerland, United Kingdom and the USA. In most places it is still in the trial phase and only used for lesser important votes.



Some systems don't require any technical gadgets; the voters get their login and password by mail letter and can use any internet-capable device. Other systems rely on telebanking technology by providing an electronically readable national ID or voters card and an electronic card reader which generates a security code. Secure web connections (SSL) guarantee the secrecy of the vote.



G.4 Audit trail systems

In the past years, a couple of audit trail systems have been developed, in order to ensure that the correct processing of the vote can be verified without breaking the secrecy of the vote. That this is not an easy task is easily taken from the multitude of systems which seem not too convincing:

- E2E (End to End) verifiability offers Punchscan (<http://punchscan.org>), but the procedure is complicated, costly and will not work with election lists.
- The ThreeBallot system is also complicated and requires a tremendous administrative effort. It is rather impracticable (<http://en.wikipedia.org/ThreeBallot>). Every voter gets three ballot cards. If he votes exactly once for a candidate, he votes against him. If he votes twice or thrice for the candidate, he votes in favour of him.
- The Newcastle University's prêt-a-voter system puts the candidates in a random order and generates a number on the receipt which includes all information about the ballot cast but can only be decoded if several tellers put their codes together (Newcastle University Technical Reports 988).

- Scantegrity II prints a random confirmation code in invisible ink on each voting response location. The voter makes the code visible with a special pen (<http://en.wikipedia.org/wiki/Scantegrity>).

On the one hand, none of the above systems is really practicable for internet voting. This makes them pretty obsolete, as manual votes may easily be ascertained manually and an E2E audit trail for manual votes is not an absolute necessity, as long as the ballots and the conglomeration tables are kept until after the election. On the other hand, those systems contain ideas which might be of use to build safer e-voting systems.

From the scantegrity idea could be adopted that the login and password are sent as scratch cards (like scratch lottery tickets) in order to prevent the mail being scanned for access codes.

The common ground the audit trails have are the receipts which do not show how the person voted. It should be sufficient that the electronic voting system issues a receipt with a serial number, which should be generated when casting the vote, allowing the voter to check on his vote online.

G.5 Risks and Advantages

The main difficulty in e-voting was explained by the German Federal Constitutional Court in its judgement of March 3, 2009 (2 BvC 3/07 and 2 BvC 4/07): The use of electronic voting machines requires that the essential steps of the voting and of the determination of the result can be examined by the citizen reliably and without any specialist knowledge of the subject. This requirement results from the principle of the public nature of elections.

It is pretty obvious that e-voting opens the doors pretty wide for electoral fraud. The processes are intransparent and cannot be ascertained manually by the members of the electoral office. Fraud could be committed in the recording, transmission and consolidation process. The idea behind the German ruling is to create processes which allow double checks at any stage of the ballot. Printed journals, receipts, etc. on the other hand will conflict with the secrecy of the vote. It will be in the ingenuity of the engineers to develop e-voting systems that will satisfy both requirements, full transparency at all stages and secrecy of the vote.

E-voting machines have been successfully attacked by hackers inside and outside the government administration. Malware may secretly install a keylogger on the computer

or falsify inputs. This risk might be reduced if less popular operating systems than Windows, Linux or Mac OS were used or the operating system of the DRE is located on non-modifiable media.

In my opinion, DRE machines have to have a printer attached, which prints each ballot cast immediately and shows this line only to the voter. The printed journal might then be compared to the transmitted data if there are any doubts about the accuracy of the data. Internet-based systems have to use a printed voters card with access codes, a secure connection and a printed log. Furthermore, some kind of verification is required to avoid phishing. Randomly generated voting session ID's and published logs with session ID's would allow the voter to check whether his vote was registered correctly.

The advantages, if the security concerns are mastered, are enormous: The expensive, time-consuming and error-prone counting is eliminated. The results of a ballot are known immediately after closing the electronic urns. The costs of the ballot are reduced to a fraction of what it was before – no expense for ballot cards, ballot stations, tellers, etc. And, last but not least, any internet-capable device, such as a computer, a cell phone etc. may serve as a ballot station.

E-Voting is not exclusive, so while the younger generation takes to e-voting, the older generation may still cast a traditional vote or vote by letter.

H Free and fair votes

H.1 The Zimbabwe example

Africa needs strong Institutions, not strongmen (Barack Obama on July 11th, 2009 in Ghana)

It is a commonplace, that referendi in the third world are often not held entirely “free and fair”, but subject to intimidation, government interference and repelling falsification of the outcome.

During Zimbabwe's presidential elections of 2002, a second, secret roll of voters was opened. Entire villages were herded to the polls with a warning that the ballot box was marked and they would face collective punishment if the vote went against Mugabe. The supposedly independent election monitors were soldiers or civil servants. Army officers were in charge of the electoral supervisory commission which oversaw the ballot and the

count. A new electoral law permitted the registrar general to open and reseal any ballot box without party polling agents being present.¹⁸

H.2 Intimidation

The most common intimidation is the warning, that the ballots were marked and a ballot not in favour of a particular party would lead to the family being herded into their house and the house set ablaze. The ballots are probably not marked at all, but a word to a neighbour, public knowledge of the family's membership of the opposition party, the wrong party's membership card or even a maliciously started rumour might start the procedure. Once a couple of families are burnt, the others will vote as told.¹⁹ Another form of intimidation is the cruel mutilation of opponents,²⁰ leaving them as a lasting and terrible reminder for everyone.

Countermeasures are campaigns to ensure everyone is informed that the secrecy of the vote is guaranteed, technical measures to ensure that no-one may be controlled on his way to the ballot box, independent monitoring, efficient separation of voters' rolls and ballots, and thorough investigation and punishment of acts of intimidation (whereby the latter might be difficult as the perpetrators are most probably members of the ruling party).

H.3 UN prerequisites for a "free and fair" vote

As early as 1948, the UN Security Council concluded that the issue [of Kashmir] „should be decided through the democratic method of a free and impartial plebiscite“. Special magistrates were to be appointed to hear cases having a „serious bearing on the preparation for and the conduct of a free and impartial plebiscite“. Any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite was to be prevented so that all voters regardless of creed, caste or party would be „safe in expressing their views and in voting on the question of the accession of the State“. All political prisoners were to be released and all possible steps were to be taken so that:

„a) All citizens of the State who have left it on account of disturbances are invited, and are free, to return to their homes and to exercise their rights as such citizens; (b) There is no victimisation; (c) Minorities in all parts of the State are accorded adequate

¹⁸ McGreal, Chris, Mail & Guardian of March 18, 2002.

¹⁹ This is the Southern African flavour of intimidation.

²⁰ In Africa they used to cut off lips, noses, ears or genitals.

protection.²¹ In the case of Ifni and Spanish Sahara it was added that (d) it must be ensured that only the indigenous people of the Territory participate in the referendum (e) a cease fire, reductions in the number of troops, and a neutralisation of the remaining armed forces must take place prior to the vote, (f) all eligible voters who wish to vote, may participate in the referendum without interference or intimidation, and ensuring the secrecy of the vote and (g) complete freedom of speech, assembly, movement and press is guaranteed.²²

H.4 External help

It will be a difficult task to establish whether it would be regarded as an attempt to colonise, if the world community would start monitoring votes in the third world. In favour of a monitoring programme may be said, that the UN has gained authority within the past years and that it may be seen as a friend, not an oppressor. Furthermore, the political situation in many third-world country has become so outstandingly bad that the people might welcome a chance to turn tides. On the other hand, it was noted that the often very subtle forms of intimidation were not picked up by international monitors. For instance, the 1994 elections in South Africa were declared “free and fair” although the author was informed about many cases of severe intimidation.

I Provisions for polls in the third world?

Democracy is greatly challenged in the third world. Not only the difficulties to hold free and fair votes make the situation critical, but also the excessive population growth witnessed in many third world countries. Population growth leads to an impoverishment of the people if the economy does not grow on the same scale as the population does. In many third-world countries, in particular in Africa south of the Sahara, the effective population growth rate is around 5%, while the respective economies grow at a slower pace. Under such circumstances, political goals become unimportant as the struggle for sheer survival predominates. Political apathy is commonplace; votes are regarded as a tradeable commodity and may be bought for very little money. The requirements of the individual and of the extended family take precedence before the requirements of the state. Dictators are looked upon like a national lottery: “If a member of my clan is dictator, money is going to trickle down to me”. In some areas, brutal gangs dominate

²¹ Suksi, 255.

²² Suksi, 257.

the political landscape. Having this in mind, it is unlikely that people will participate in political matters. If it is nevertheless decided that democracy is to be established, the following measures shall be considered:

- Buying of votes must be prevented and lead to instant disqualification of the respective candidate;
- Casting a ballot must not lead to any expenses on the part of the voter; the voters may have to be paid a small amount to cover their travel expenses and to make voting more attractive;
- A sensitive control of political violence must be established²³;
- The threshold for nominations must be sufficiently low to allow poor candidates to stand for office;

Despite of these measures, democracy shall be limited to a bare minimum as impoverished voters will have little interest in frequent ballots.

Even though the result may not appear like a fully-fledged democracy, the mere fact that a ruler may be voted out of office after his term could mean an enormous improvement for many poor countries.

²³ Foreign monitors usually don't pick up the subtle ways of intimidation and are quickly apt to declare that a free and fair ballot was held while in reality heavy intimidation took place.

J Appendix 1: Proposed Federal Law on the Political Rights

The Federal Assembly of the <country>, based on the Federal Constitution, enacts:

I. Ballots

Art. 1 Voter's registration

¹ The voters are registered in the voting register at the department of home affairs. Registrations and cancellations must be made ex officio.

² The voters register shall remain closed from the day of posting the ballot papers up to the day after the ballot.

³ The voting register shall be open for inspection by the voters.

Art. 2 Principles of voting

¹ The voters may cast their ballot at the ballot box, by letter or by electronic voting.

² The secrecy of the vote must be maintained.

Art. 3 Voting at the ballot box

¹ For the ballot, the official ballot cards must be used.

² Blank and pre-printed ballot cards shall be filled in or altered by hand.

³ The ballot may be brought to the ballot box by authorized third parties. Voters unable to write may have their ballot card filled in by a voter of their choice and according to their instructions.

Art. 4 Postal voting

¹ The federation provides a simple method of voting by mail.

² The control of voting rights, the secrecy of the vote and the acquisition of all ballots must be ensured and abuses prevented.

³ Postal voting is permissible from receipt of the voting papers.

Art. 5 Electronic voting

¹ The federation is in charge of and provides the infrastructure for electronic voting.

² The control of voting rights, the secrecy of the vote and the acquisition of all ballots must be ensured and abuses prevented.

³ For provincial and municipal ballots, the provinces and the municipalities shall have access to the electronic voting system.

⁴ The details shall be laid down in a decree.

Art. 6 Scheduling

¹ The federal government sets the rules for determining the voting days. Thereby they are to meet the needs of the voters, of parliament, provinces, parties and delivery organizations and avoid scheduling conflicts.

² The last day of the ballot shall fall on a Sunday²⁴.

²⁴ in order to enable employees to cast their ballots

³ The federal government shall determine, at least four months before the scheduled vote, which bills are put to the ballot. Federal statutes declared urgent can be brought to the ballot within a shorter period of time.

⁴ Each province conducts the ballots on its territory and makes the thus necessary arrangements.

II. Ballot Papers

Art. 7 Ballot papers

¹ The ballot papers shall be collated and posted by the municipality.

² They consist of:

- a) information brochures or election guides²⁵.
- b) the ballot cards;
- c) the voting card;
- d) the voting envelope;

³ The municipality shall issue the voters card and the voting envelope.

⁴ Federation, province and municipality shall each issue their own information brochures, election guides and ballot cards in the matters concerning them.

Art. 8 Delivery of the ballot papers

¹ The voters shall receive the ballot papers at least three weeks before the voting day.

² The information brochures and election guides shall be electronically accessible to the public at least six weeks before the voting day.

Art. 9 Information brochure

¹ An information brochure containing the draft bills and explanations shall inform the voters about the ongoing ballots.

² Federation, province and municipality each create their own information brochures pertaining to their respective ballots. The brochures shall be prepared by the competent administration and submitted to the respective executive for approval.

³ The brochure shall abide by the principles of integrity, objectivity, transparency and proportionality.

⁴ It shall bear account of the most important positions represented in the decision-making process, including substantial minority opinions.

⁵ It shall not make voting recommendations which differ from the position of the enacting body.

⁶ For popular initiatives and referenda, the committees responsible for the contents shall submit their arguments to the competent municipal, provincial or federal authority who shall include them in the brochure. It may amend or reject defamatory, grossly untruthful or too wordy comments.

Art. 10 Election Guide

¹ In every election, a short election guide shall be prepared, containing information on how to vote.

² In majority elections, it shall contain the names of the nominated candidates.

²⁵ Information about cumulated/split votes, blank lists etc. In majority elections, contrary to the model of the law on the ballots of the Canton of St. Gallen, the names of the nominated candidates shall be listed in the election brochure, not on the ballot.

Art. 11 Ballot cards

¹ The ballot card shall be marked "ballot card" and contain the designation of the municipality, province and federation as well as the date and subject of the vote.

² To distinguish different voting matters, the ballot cards may be of different colors, marked with numbers or contain other distinguishing characteristics. They may be designed for automated processing.

³ In referendi, the ballot card shall contain the voting issue and for each question checkboxes labeled "yes" and "no" or sufficient space to answer

⁴ In majority elections it shall contain as many blank lines as seats are to be elected.

⁵ In proportional elections, the officially published lists of nominations along with a blank list shall be issued to the voter.

Art. 12 Voting cards

The voting card card contains:

- a) ID number, name, first name, date of birth and address of the voter;
- b) the date of the poll;
- c) a declaration that the vote is representing the voter's own will for postal voting;
- d) the voting rights pertaining to the voting card²⁶;
- e) URL or phone number, login and password for electronic voting;
- f) information on locations and opening times of the local polling stations; on procedures, deadlines and delivery of postal voting; and on procedures, deadlines, URL or phone number, login and password for e-voting.

Art. 13 Voting envelopes

The envelopes provided by the municipality for casting the vote have to bear the address of the municipal polls office and the reference "postage paid" for use in postal voting.

III. Election modi**Art. 14 Proportional representation**

¹ For the seats of the national council, proportional representation shall be applicable.

² The seats shall be awarded to the provinces in relation to their resident population specified by the last official census.

³ In provinces with one seat only, majority elections shall take place.

Art. 15 Majority elections

¹ For the election of the federal council, a majority election shall be held within the federal assembly.

² For all further offices, the provinces shall determine, whether proportional or majority elections will be held.

Art. 16 Silent election

Silent election is permissible in provincial and municipal matters, if the number of candidates does not exceed the number of seats to be allocated.

²⁶ Limitations to Federal, provincial or municipal elections; special municipalities

IV. Polls offices, regularization and reporting

Art. 17 Municipal, provincial and federal polls offices

¹ The municipal polls offices count the ballot cards cast at the ballot box or by postal voting, add the electronic ballots, determine the results of the ballots in the constituency and create an official protocol of the results.

² The provincial polls offices compile the results of the municipal polls offices and supervise them.

³ The federal polls office compiles the results of the provincial polls offices and supervises them.

Art. 18 Determining the results of the ballot

¹ When determining the results of the ballot, the blank and void ballot cards shall not be considered.

² In the case of a provincial result consisting of an equal number of yes and no ballots, the province is considered as having turned down the bill.

³ Amendments of the constitution require the majority of voters and provinces unless the submission makes different provisions.

Art. 19 Void ballot cards

¹ Ballot cards are invalid if they

- a) were not officially issued;
- b) are not filled in by hand;
- c) do not allow to identify the will of the voter beyond reasonable doubt;
- d) contain defamatory statements or obvious markings.

Art. 20 Voting Protocol

¹ Every municipal polls office shall create a protocol on the outcome of every ballot, recording the total number of registered voters, the number of actual voters, the number of blank, invalid and valid ballot cards and the number of affirmative and negative votes.

² The protocols shall be forwarded to the provincial government.

³ The provincial government shall compile the provisional results from all municipal polls offices and forward them to the federal government, which publishes them within a fortnight after the voting day in the federal government gazette.

⁴ The provinces forward the protocols, on request also the ballot cards, within ten days after the appeal period to the federal chancellery. After ascertainment of the outcome of the ballot, the ballot cards shall be destroyed.

Art. 21 Certification and publication of the results of the ballot

¹ The federal government shall certify the outcome of the ballot, once it is established that no complaints were received in federal court or after all complaints have been settled.

² The certification shall be published in the federal government gazette.

³ The federal government may implement urgent laws or international treaties provisionally before the expiry of the verification period.

V. Electronic ballots (e-voting)

Art. 22 Scope of electronic ballots

Electronic ballots are only permissible when provided for all voting matters on the same voting date within the designated communities.

Art. 23 Substitution in electronic ballots

Electronic ballots may only be cast by the person entitled to do so. Substitution is prohibited.

Art. 24 Requirements for electronic ballots

In electronic ballots, it must be ensured that:

- a) only people entitled to vote may cast a ballot;
- b) every person entitled to vote has only one vote and may only vote once;
- c) third parties may not systematically and effectually intercept, alter or redirect electronic votes;
- d) third parties may not get to know the content of electronic ballots;
- e) all votes cast are included in determining the results;
- f) every systematic abuse can be excluded.

Art. 25 Requirements for electronic access authorization

Access authorization, access code and electronic signature systems have to ensure that:

- a) third parties may not systematically intercept, alter or divert access code, access authorization or electronic signature
- b) third parties cannot systematically abuse access code, access authorization or electronic signature;
- c) the security concept excludes any danger of systematic abuse.

Art. 26 Technical requirements

The federal government shall detail the technical requirements by decree.

VI. Majority Elections

Art. 27 Absence of nomination requirements

¹ In majority elections, any eligible person may be voted for.

² Nominations are voluntary.

³ All nominations shall be listed in the election brochure.

Art. 28 Relevant majority

¹ In the first ballot, the candidates achieving absolute majority are deemed elected.

² The absolute majority is achieved if a candidate achieves more than half of all valid votes and it must be calculated separately for the election of each authority.

³ In the second ballot, the relative majority shall prevail. Elected are the candidates with the highest numbers of votes.

Art. 29 Elimination

¹ If more candidates than available seats, or candidates who may not belong to the same authority²⁷, achieve absolute majority, those with the highest number of votes are deemed elected.

² In the case of several candidates attracting an equal number of votes, it shall be decided by lot.

VII. Proportional elections**Art. 30 Seat distribution**

² The seats of a proportionally elected council shall be distributed among the provinces using the following procedure:

- a) First distribution:
- b) The total resident population is divided by the total number of seats. The nearest whole number above the result is the first distribution number. Each province whose population does not reach this number, is given a seat; it will be excluded from further distribution.
- c) The resident population of the remaining provinces is divided by the number of seats not yet allocated. The nearest whole number above the result is the second distribution number. Every province, whose population does not reach this number is given a seat; it will be excluded from further distribution.
- d) This procedure is repeated until the remaining provinces reach the last distribution number.
- e) Main distribution: Each remaining province gets as many seats as the final distribution number is included in its population.
- f) Remaining seats distribution: The remaining seats are allocated to the provinces with the largest residue numbers. If several provinces achieve the same residue numbers, they are excluded in the order of smallest residue numbers, which result after division of their population numbers by the first distribution number. If these residues are equal, the lot decides.

³ The federal government shall decide when lots are to be drawn.

Art. 31 Date of the election

The federal government shall determine the date of the election.

Art. 32 Election registration deadline

¹ The federal government determines a date not earlier than two months and not later than one month before the date of the election as a deadline for the nominations.

² The provincial government shall designate which authority the nominations must be lodged with.

³ The nominations must not arrive later than on the day of the deadline for nominations.

⁴ The provinces shall notify the federal chancellery of the nominations received on the first working day following the end of the deadline.

Art. 33 Number and designation of nominees

¹ A nomination shall contain at most as many names of eligible persons as there are members of the council to be elected in the constituency and no name more than twice. If a nomination includes more names, the last ones shall be deleted.

² The nominations must specify: family and first names, sex, date of birth, occupation and residential address of the nominees.

²⁷ e.g. members of the same family

³ Every nominee must certify in writing that he accepts the nomination. Lacking this confirmation, his name will be deleted.

Art. 34 Designation of the nomination

Each nomination must bear an appropriate designation which is sufficiently unique that it cannot be confused with other, similar designations.

Art. 35 Quorums of signatories

¹ A nomination of up to ten nominees must be personally signed by a minimum number of 100 eligible voters with political residency in the constituency. For each additional nominee another ten signatures are required.

² A voter may not sign more than one nomination. After submitting the nomination, he cannot not withdraw his signature.

Art. 36 Representatives of the nomination

¹ The signatories have to designate a representative for the nomination and a deputy. Else the first and second name in the list of signatories are deemed representative and deputy.

² The representative and, if he is prevented, his deputy are entitled and obliged to make legally binding declarations on behalf of the nomination.

Art. 37 Electronically signed nominations

¹ The federal government maintains a system to electronically submit and sign nominations.

² The system shall also accept nominations for cantonal and municipal elections.

³ The provisions of Art. 60 of this act apply mutatis mutandis.

Art. 38 Inspection of nominations

The voters of the constituency may view the nominations and the names of the signatories at the competent authority.

Art. 39 Multiple proposed nominees

¹ If the name of a nominee appears on more than one list in the province, the provincial government shall delete him or her immediately from all these nominations.

² The federal chancellery immediately removes those nominees from a nomination, whose name appears already on a nomination from another province.

³ The federal chancellery informs the affected provinces immediately of the deletions.

Art. 40 Correction of deficiencies; replacement nominations

¹ The province reviews the nominations and sets the representatives of the signatories a deadline to correct deficiencies in the nomination, change designations, which lead to confusion and substitute nominees, whose names have been officially deleted.

² The nominees replacing deleted candidates must confirm in writing that they accept the nomination. In absence of such a confirmation or if the name in question already appears on another nomination or if the nominee is not eligible, the replacement nomination is deleted.

³ If the representative of the nomination does not require otherwise, the replacement proposals are lined up at the end of the nomination.

⁴ If a deficiency is not remedied within the set deadline, the nomination is deemed invalid. If the objection concerns only one nominee, his name will be deleted.

⁵ On the expiry of seven days after the closing date for the election registration, no nomination shall be changed anymore.

Art. 41 Lists

¹ The adjusted nominations are called lists.

² The lists are provided with serial numbers.

Art. 42 Publication of lists

¹ The provincial government shall publish the lists with their designations and serial numbers as soon as possible in the provincial government gazette.

² The federal government shall publish the lists in electronic form, stating family- and first names, year of birth, occupation and place of residence of the candidates.

Art. 43 Preparation and delivery of ballot cards

¹ The provinces create for all lists ballot cards on which the list designation, serial number and candidate information (at least family- and first name and place of residence) are pre-printed, as well as blank lists. The lists may be optimized for electronic data processing.

² The provinces shall deliver not later than ten days before the election day a complete set of all ballot cards to the voters.

Art. 44 Election brochure

Before each general election, the federal government shall prepare a short election brochure, which is delivered to the voters together with the ballot cards.

Art. 45 Completing the ballot card

¹ On blank ballot cards, the designation or serial number of a list as well as names of eligible candidates may be added by hand.

² On pre-printed ballot cards, pre-printed candidates' names may be deleted.

³ To split votes, candidates' names from other lists may be added.

⁴ To cumulate votes, the name of the same candidate may be included twice on a ballot card.

⁵ To change the designation of a list, the pre-printed serial number and name of the list may be deleted and replaced it with another.

Art. 46 Votes for the deceased

Votes for candidates which have died since the adjustment of the lists will be counted as a candidate votes.

Art. 47 Additional votes

¹ If a ballot card contains less valid candidate votes than representatives are to be elected in the constituency, the blank lines are considered additional votes for the list, whose designation or serial number is indicated on the ballot card.

Art. 48 Regularizing

The ballot cards shall be regularized before counting.

Art. 49 Compilation of the results

Following the close of the election, the provincial polls offices determine based on the protocols of the municipal polls offices:

- a) the number of registered voters and the numbers voters;
- b) the number of valid, invalid and blank ballots;
- c) the number of votes which each candidate of each list received (candidates' votes);
- d) the number of additional votes for each list;
- e) the sum of the candidate- and additional votes of each list (party votes);
- f) the number of blank votes.

Art. 50 The distribution of seats among the lists

¹ The number of valid party votes of all lists is divided by the number of seats to be allocated increased by one. The next higher whole number is called distribution number.

² Each list will be allocated as many seats as the distribution number is included in their numbers of votes achieved.

³ If not yet all seats are distributed, then the remaining seat are assigned one by one and consecutively according to the following rules:

- a) The number of votes of each list shall be divided by the number of seats already allocated to the list increased by one.
- b) The next mandate is allocated to the list with the largest quotient.
- c) If several lists have achieved the same quotient and the same claim, the mandate is allocated to the list amongst them, which has achieved the largest residue in the division according to paragraph 2.
- d) If still several lists have the same claim, the mandate is allocated to the list with the highest number of party votes.
- e) If still several lists have the same claim, the mandate is allocated to the list whose candidate in question to be elected achieved the highest number of votes.
- f) If several of those candidates have achieved the same number of votes, the decision is made by drawing lots.

² This procedure is repeated until all mandates are allocated.

Art. 51 Determination of the elected and the deputies

¹ Of each list are, according to the mandates achieved, those candidates elected who have achieved the highest number of votes.

² The candidates not elected are deputies in the order of votes achieved.

³ In case of equal number of votes, the order is determined by drawing lots.

Art. 52 Excess mandates

If a list is allocated more mandates as candidates were named, a by-election shall be held.

Art. 53 Notification of the elected

After determining the results the provincial government immediately informs the elected in writing about their election and notifies the federal government about the names of the elected.

Art. 54 Publication of the results of the election

¹ The province shall publish the results of all candidates and if applicable of all lists with reference to the legal remedies latest within eight days from the election day in the provincial government gazette.

² The results shall also be published in the federal government gazette and electronically.

Art. 55 Conveyance of the protocols and ballot cards

The province shall convey the protocol of the election immediately after expiry of the deadline for appeal to the federal chancellery . The ballot cards are to be delivered within ten days from expiry of the deadline for appeal to the federal government.

Art. 56 Moving up

¹ If a member of a proportionally elected council retires during the term of office, the provincial government declares the first runner-up from the same list as elected.

² In case that the runner-up is not willing or not in a position to fill the office, the subsequent candidate moves up.

³ If a seat cannot be filled by a runner-up, a by-election shall be held. If several seats are to be filled, the regulations on the proportional elections shall be applicable, else the regulations on the majority elections.

VIII. Referendum**Art. 57 Compulsory referendi**

Legislation which is subject to a compulsory referendum shall be published after enacting by the federal assembly.

Art. 58 Voluntary referendi

¹ A referendum may be called for on legislation, which is declared subject to a voluntary referendum.

² The referendum may be called for by the majority of the provinces.

³ It may also be called for by 100'000 signatories, if they submit their signatures together with an official certification of the signatures within the referendum deadline at the federal chancellery .

⁴ The referendum cannot be withdrawn.

⁵ If a referendum has been accomplished, the federal government orders a public vote to be held.

Art. 59 Signature lists

¹ The signature lists for a referendum have to include the following items:

- a) the province and political municipality, where the signatories are entitled to vote;
- b) the designation of the bill with the date of enactment by the federal assembly;
- c) the notification that anyone forging the result of collecting signatures for a referendum or bribing or being bribed while collecting signatures will be punished by law.

² If several popular demands are being submitted for signing, each of them is subject to a separate list of signatures.

³ Whoever downloads an electronically provided signature list for a referendum is responsible for its fulfilment of the legal requirements.

⁴ The voter has to write his name and first name, year of birth and address legibly and by hand on the signature list and personally add his signature.

⁵ He may sign only once for the same referendum.

Art. 60 Electronic signatures

¹ Referendi may be signed by electronic means.

² The federation maintains to this end a server system, which allows recording electronic signatures.

³ The secrecy of the vote and the correct allocation of all signatures must be maintained and any danger of deliberate or systematic abuse excluded.

⁴ The certification of eligibility shall be conducted electronically via an access control system.

⁵ The referendum committee shall have limited access to the system for viewing the signatures.

Art. 61 Certification of eligibility

¹ The signature lists shall be certified that the signatories are eligible in federal matters.

² The certification shall contain the number of ascertained signatures.

Art. 62 Exclusion of public viewing

Submitted signature lists are not returned and may not be viewed.

Art. 63 Adoption

¹ After expiry of the referendum deadline, the federal chancellery ascertains, whether the referendum achieved the prescribed number of certified signatories. Invalid are signatures on lists which were submitted uncertified or after expiry of the referendum deadline.

² The federal chancellery shall then declare by decree whether the referendum has been successful.

³ The federal chancellery shall publish the decree on the adoption of the referendum in the federal government gazette.

Art. 64 Provincial referendum

¹ If provincial law does not make different provisions, the provincial parliament shall decide on the declaration of the provincial referendum.

² The writ of the provincial government to the federal chancellery shall contain:

- a) the bill with date of enactment by the federal assembly;
- b) the body declaring the provincial referendum;
- c) the provincial legislation determining the competent body for the provincial referendum;
- d) date and result of the decision on declaring the referendum.

Art. 65 Adoption of the provincial referendum

¹ After expiry of the referendum deadline, the federal chancellery shall determine, whether the referendum was concluded by the necessary number of provinces.

² Invalid are requests for a referendum, which

- a) were not concluded and submitted to the federal chancellery within the referendum deadline;
- b) were concluded by a factually incompetent body;
- c) do not clearly determine, which federal bill the popular vote is requested for.

³ The federal chancellery shall then declare by decree whether the referendum has been successful.

⁴ The federal chancellery shall notify the provinces in writing on the adoption or failure of the the provincial referendum and publish the decree with details of the number of valid and invalid provincial requests in the federal government gazette.

IX. Popular Initiative

Art. 66 Signature list

¹ The signature list for a popular initiative has to contain the following particulars:

- a) the province and political municipality, where the signatory is entitled to vote;

- b) the title and wording of the initiative and the date of its publication in the federal government gazette;
- c) an unreserved withdrawal clause;
- d) the notification that anyone forging the result of collecting signatures for a popular initiative or bribing or being bribed while collecting signatures will be punished by law.
- e) the names and addresses of 7 to 27 eligible originators of the initiative (committee of the initiative).

² If several initiatives are being submitted for signing, each of them is subject to a separate list of signatures.

³ Whoever downloads an electronically provided signature list is responsible for its fulfilment of the legal requirements.

Art. 67 Approval

¹ Before collecting signatures, the signature lists require approval by the federal chancellery. The federal chancellery refuses approval, if they are not in accordance with the legal requirements.

² If the title of an initiative is misleading, if it contains commercial or personal advertising or if it is prone to confounding, it shall be amended by the federal chancellery .

³ The federal chancellery checks the wordings of the initiative on their linguistic conformity and shall translate where necessary into the other official languages.

⁴ The decree on the approval, including the approved title and wording of the initiative as well as the names of the originators, shall be published in the federal government gazette.

Art. 68 Signature and certification

The provisions of Art. 59ff. for the signature, electronic signature and certification of eligibility of referendi apply *mutatis mutandis* for the popular initiative.

Art. 69 Submission

¹ The signature lists of a popular initiative together with the certifications must be submitted to the federal chancellery jointly and not later than 18 months after publication of the wording of the initiative in the federal government gazette.

² Submitted signatures shall be neither returned nor viewed.

Art. 70 Conclusion

¹ After expiry of the collection deadline, the federal chancellery determines whether the popular initiative contains the required number of valid signatures. Else the federal chancellery notifies by ordinance, whether the popular initiative has been accepted.

² Invalid are:

- a) Signatures on lists, which do not fulfil the requirements of this act;
- b) Signatures which were not certified;
- c) Signatures on lists which have been submitted after expiry of the deadline.

³ The federal chancellery publishes the ordinance on the acceptal including the number of valid and invalid signatures for each province in the federal government gazette.

Art. 71 Ascertainment of the validity

¹ If a popular initiative does not uphold the unity of the matter or the unity of the form or if it violates compulsory provisions of public international law, the federal assembly shall declare it fully or partially invalid.

² The unity of matter is maintained, if there is a factual connexion between the different parts of the initiative.

³ The unity of the form is maintained, if the initiative is held entirely in the shape of a general suggestion or entirely in the shape of a detailed draft bill.

Art. 72 Withdrawal

¹ Every popular initiative may be withdrawn by its committee. The declaration on the withdrawal is binding when signed by the majority of the still eligible members of the committee.

² The withdrawal is permissible until the federal government sets the date of the popular vote. The federal chancellery invites the committee previous to publication of its decision and sets a brief deadline.

³ An initiative in the shape of a general suggestion may not be withdrawn after being passed by the federal assembly.

Art. 73 Submittal to the ballot

¹ The federal government submits the popular initiative to the ballot within ten months after the final vote in the federal assembly.

² If the federal assembly elaborates counter-proposals, it may extend the deadline for holding the ballot.

³ If a popular initiative in the shape of a general suggestion achieves a majority in the ballot, the detailed change of constitution shall be submitted within 30 months to the ballot.

Art. 74 Ballots on counter-proposals

¹ If the federal assembly concludes a counter-proposal, three questions on the same ballot card shall be put to the ballot. Every voter may declare unimpededly:

- a) whether he or she prefers the popular initiative to the existing legal provisions;
- b) whether he or she prefers the counter-proposal to the existing legal provisions;
- c) which of the two bills are to be enacted if both are affirmed at the ballot.

² The absolute majority is to be determined separately for each question. Not answered questions shall not be counted.

³ If both the popular initiative as well as the counter-proposal are affirmed at the ballot, the result of the third question decides. The bill achieving more votes is to be enacted.

X. Administration of justice

Art. 75 Complaints

¹ Complaints on violations of the right to vote or irregularities in ballots may be lodged with the provincial government.

² The complaints shall be submitted within three days after discovery of the reason for the complaint, latest on the third day after publication of the results in the provincial government gazette.

³ The complaint has to contain a brief description of the matter for substantiation.

⁴ The provincial government decides within ten days after receipt of the complaint.

⁵ If irregularities are detected in the course of the complaint or following official investigations, it shall take the necessary actions to amend the problems.

⁶ If the contested irregularities neither because of their kind nor because of their extent were suitable to substantially influence the outcome of the ballot, the ballot shall be ascertained and the decision published in the provincial government gazette.

⁷ The provincial government notifies all its decisions to the federal chancellery.

Art. 76 Appeal

¹ Appeal in federal court is open against all decisions and decrees of the provincial government concerning votes and elections.

Art. 77 Contraventions

¹ With prison up to five years shall be punished, whoever:

- a) falsifies, distorts, or unauthorizedly uses a voting card;
- b) knowingly uses a false or falsified voting card or forwards it to another person for use;
- c) supplies a voter with an invalid ballot card in order to induce him to cast an invalid vote;
- d) intentionally disrupts or impedes access to the polling station;
- e) unauthorizedly accesses, manipulates or impedes an electronic voting system;
- f) creates false instances of electronic voting systems (phishing);
- g) intentionally reports false results of ballots to the authorities.

² In light cases, a fine or a warning may be issued.

³ Attempt and assistance are punishable.

XI. Joint provisions**Art. 78 Provincial legislation**

The province may legislate where this law and the decrees of the federation do not contain or reserve respective provisions.

Art. 79 Fees for official acts

For official acts according to this law, no fees may be charged. In cases of complaints lodged for the purpose of delaying or not in good faith, the costs may be charged to the complainant.

Art. 80 Statistical inquiries

¹ The federal government may incur statistical inquiries on elections or referendi.

XII. Final provisions**Art. 81 Enforcement**

¹ The federal government enacts the implementary regulations.

² Permission by the federal government is required for provincial implementary regulations. They are, after acceptance of this law, to be enacted within 18 months.

Art. 82 Referendum and entering into force

¹ This law is subject to the voluntary referendum.

² The federal government shall determine the date of implementation of this law.

K Appendix 2: Proposed Federal Decree on the Political Rights

The federal government of <country>, based on Art. 81 para 1 of the federal law on political rights enacts:

I. Ballots

Art. 1 Political residence

A political place of residence differing from the civil place of residence may in specific be granted to:

- a) wards;
- b) weekday residents, in particular students;
- c) spouses, who with the consent of the spouse, on judicial warrant or through direct legislative power, with the intention of permanently remaining, dwell outside the joint household.

Art. 2 Change of political residence

Whoever during the last four weeks before a federal ballot changes the political place of residence, will receive the voting papers at the new place of residence only upon prove that he or she has not already exercised the right to vote at the previous political residence.

Art. 3 Filling in the ballot card

¹ Ballot cards shall be filled in or amended by hand.

² The voter may make manual alterations, deletions, changes or additions to the printed ballot cards.

³ In proportional elections, the name of a candidate may appear twice on a ballot card. Repeat symbols or expressions which suggest a repetition (as quotation marks, "ditto," "idem") are not permissible for the purpose of dual registration of a candidate's name. Any lines containing these characters or expressions are treated as empty.

Art. 4 Composing the ballot

¹ The ballot cards shall be put in the separate envelope provided for this purpose;

² The declaration on the voting card shall be signed;

³ Ballot envelope and voting card shall be sealed in an enclosing envelope;

Art. 5 Voting at the ballot box

¹ The voter has to submit his or her voting envelope at the ballot box.

Art. 6 Postal voting

¹ A voter may post the voting envelope at any mailbox.

² The postage shall be paid for by the municipality.

³ postal votes are only valid if they arrive on Sunday on closing of the polls at the municipality.

Art. 7 E-voting

¹ Any registered voter may cast his ballot via the internet.

² The vote must be cast before the voting Sunday on 12:00am.

II. Polls offices, regularization and reporting

Art. 8 Polls offices

- ¹ The provincial government shall establish a provincial polls office according to federal law.
- ² It shall oblige the municipalities to establish municipal polls offices.
- ³ It shall regulate the composition of the provincial and municipal election offices and instruct them.

Art. 9 Tasks

- ¹ The provincial polls offices shall compile the results of the municipal polls offices and supervise them.
- ² If concerns arise pertaining to a municipal polls office, the provincial polls office shall inform the municipal polls office without delay about the problems and set a deadline to amend them. If the deadline is not met, the provincial polls office may effect the necessary measures to rectify the problem.
- ³ The municipal polls offices shall regularize and count the ballot cards cast at the ballot box or by postal voting, add the electronic ballots, determine the results of the ballots in the constituency and create an official protocol of the results. They shall notify the provincial polls office about the results.
- ⁴ The municipal executive shall publish the results of municipal ballots.

Art. 10 Validity of the ballot cards

- ¹ The validity of ballot cards in federal, provincial or municipal matters shall be determined equally.
- ² A ballot card is valid if the will of the voter is clearly recognisable.
- ³ ballot cards are invalid, when:
 - a) they are cast without the official envelope into the ballot box;
 - b) they are not filled in or changed by hand;
 - c) they are not officially printed ballot cards;
 - d) they are found with other ballot cards of the same voting or election topic in the same envelope;
 - e) they contain unofficial control marks;
 - f) they contain glued-on items;
 - g) they contain abusive or defamatory remarks.

Art. 11 Validity of postal voting

- ¹ The voting registrar or the clerk of the polls office, with the help of a committee of the polls office, ascertains that the postal ballot is valid.
- ² It is valid if the voter is eligible as a voter and the enclosing envelope contains the ballot cards in a separate envelope and the signed voting card;
- ³ The postal votes are kept under lock before ascertaining. Afterwards, they shall be kept in a sealed ballot box.

Art. 12 Ambiguous statements

If the meaning of a statement cannot be established beyond doubt, it is only valid if the will of the voter may clearly be determined.

Art. 13 Votes for deceased candidates

Votes for candidates who have deceased since the regularization of the nominations will be counted as candidates votes.

Art. 14 Voting protocol

¹ The voting protocol shall correspond to the form shown in Annex 1 (regular) or 2 (Initiative with counterproposal).

² The provinces may obtain the forms at the federal chancellery at cost price.

³ The federal chancellery determines when the records must be destroyed.

Art. 15 Notification of the provisional provincial results

¹ The municipal election offices shall report the results of the ballot to the provincial election office immediately by telephone, fax, e-mail or other appropriate forms of electronic communication.

² The provincial election office shall report the preliminary provincial results not later than 18.00h via fax, e-mail or if necessary by phone to the federal chancellery.

³ The report of the voting results shall include:

- a) the number of yes and no votes for each question;
- b) the provincial percentage of voter's participation;
- c) in people's initiatives with counter-proposals for all three questions the number of votes, which were entered in the voting protocol in the category "without answer" and in the deciding question the number of votes for the people's initiative and for the counter-proposal.

Art. 16 Publication of the provincial results

The provincial government publishes the ballot protocol and permissible legal remedies immediately in the provincial government gazette.

III. Electronic ballots (e-voting)**Art. 17 User interface**

¹ The user interface must not lead to hasty or ill-considered votes.

² It shall consider the needs of voters with disabilities, especially with visual impairments, as far as the safety and the secrecy of the vote are not restricted.

³ Before finalizing their ballot, the voters must be specifically made aware that they are about to participate in an authorized ballot. They may only proceed after confirming that they took note of this message.

⁴ Systematic manipulative advertisements on the device used during the voting process must be prevented.

⁵ Up to the moment of finalizing their ballot, the voters must have the opportunity to correct or to cancel the vote.

⁶ Transmittal of the input must be visible for the voter on the device used.

⁷ The vote shall be blinded out on the user interface immediately after transmittal.

⁸ The user interface shall not allow making hardcopies of the vote cast.

⁹ The voters shall receive the necessary information to ascertain the authenticity of the internet site and the server used to vote.

¹⁰ The instructions must inform about how the vote can be deleted on all storage units of the device used for the ballot.

Art. 18 Control of voting rights

Before accepting an electronic ballot, the system must ensure

- a) that the person casting the ballot is entitled to vote;

- b) that the voter has not already voted.

Art. 19 Encryption

¹ The ballots must be encrypted at the beginning of the transmission of the vote in the device used to cast the electronic ballot. They may only be transmitted encrypted. The transmission method must render it impossible that voting data is deliberately or systematically being stolen or decoded.

² Votes cast may only be decrypted while counting, until then they shall be stored in encrypted form in the electronic ballot box.

Art. 20 Anonymizing

¹ The ballots shall reach the competent authorities anonymised and without the possibility of tracing them back to the voter.

² The transmission, checking of voting rights, registration of the vote in the electoral register and casting of the ballot into the electronic ballot box must be organized in such a manner that at no time a ballot may be assigned to a voter.

³ The data for the control of voting rights shall not lead to identify the voter. It shall be designed to allow the competent authority to ensure that the voter casts only one single vote.

⁴ Votes cast must be stored anonymously in the electronic ballot box. The arrangement of the stored votes may not allow conclusions on the order of votes received.

Art. 21 Data processing

¹ Data processing in connection with electronic voting must be clearly separated from all other applications.

² All necessary measures must be taken to ensure that no information which is needed for electronic processing may be used for a violation of the secrecy of the vote.

Art. 22 System access

¹ During the opening hours of the electronic ballot box, any access to the system or one of its components shall be carried out by at least two people; it must be recorded and controlled by a representative of the competent authority.

² During the opening hours of the electronic ballot box, extraneous access to the server must be excluded.

³ Ballot box and ballot server have to be protected from any attack. Access rights to voting data and physical access to the equipment may only be granted to authorized persons

- a) to review the voting rights;
- b) to test for multiple voting;
- c) to register a ballot cast;
- d) to store the persons eligible to vote.

Art. 23 Data safety

Technical measures must guarantee that when systems malfunction or fail, no vote cast is irretrievably lost. The processes must be verifiable and the counting of voting legitimations and votes cast remain possible.

Art. 24 Technical status

¹ The technical components used by the relevant authorities, the software, deployment and operational structure shall be assessed before every ballot according to state of the art.

² The fulfillment of safety requirements and the functionality of the electronic ballot system must be certified by an independent body. This requirement applies for any change to the system.

Art. 25 Analysis of the result

¹ Prior to the closing of the electronic ballot box no interim results may be levied.

² After the completion of the electronic ballot the encrypted votes shall be immediately decrypted according to the provincial regulations. Then they shall be enumerated. The electronic counting must be accessible by a representation of the voters.

³ After counting they are to be added to the votes cast by other means.

⁴ A journal shall be kept about the counting of electronic votes.

⁵ The results may not be reproduced in such detail that the person casting the vote can be concluded.

Art. 26 Recount in case of breakdowns

If irregularities occur, it must be possible to determine the number of defective electronic ballots and to recount them in order to correct the defective result.

Art. 27 Plausibility of electronic results

If the result of a ballot is questioned, it must be possible to check the electronic results for plausibility. Under constant maintenance of the secrecy of the vote the following measures shall be allowed:

- a) review of the test votes cast by inspectors;
- b) comparing the proportion of yes and no votes respectively their different percentages between the postal voting, the electronic voting and the voting at the ballot box;
- c) comparison of the electronic votes counted with the log files of the ballot server.

IV. Majority Elections

Art. 28 Regularization of valid ballot cards

¹ The polls office deletes on the ballot cards:

- a) Candidate names, which appear more than once;
- b) Names which are illegible or of candidates insufficiently clearly described;
- c) Names of persons not eligible.

² The general provisions of Art. 8ff. apply.

V. Proportional Elections

Art. 29 Counting forms

² The local election offices shall be issued with counting forms matching the <samples 1-5 in Annex 2> which may be obtained from the federal chancellery at cost price.

³ The federal government may permit a province to use different forms, if the request is made by first of January of the election year. Forms previously approved by the federal council require no further approval.

Art. 30 Contents and signing of the nomination

¹ Nominations must include at least the information specified in the form in <Annex 3a>.

² By signing the nomination the candidates who have their political residency in the constituency, declare at the same time their consent to their nomination.

³ The name of a voter who signed several nominations shall be deleted immediately from all nominations by the province.

Art. 31 Regularizing nominations

¹ The competent provincial offices shall electronically convey all nominations to the federal chancellery not later than on the day after the nomination deadline.

² The federal chancellery reports deletions to the province within 72 hours from arrival of its nominations.

³ The province shall provide the federal chancellery at the latest within 24 hours after the adjustment period with a copy of each list. It denotes the lists as adjusted.

Art. 32 Additional votes

¹ If a ballot card contains less valid candidate votes than representatives are to be elected in the constituency, the blank lines are considered additional votes for the list, whose designation or serial number is indicated on the ballot card.

² If a ballot card contains more names than representatives are to be elected in the constituency, the excess names are deleted from the bottom.

³ Names that not appearing on any official list shall be deleted. Their votes shall be counted as additional votes, if the ballot card is valid.

⁴ On ballot cards without or with more than one designation or serial number, the blank lines do not count as votes.

⁵ In case of a conflict between the designation and serial number of the list, the designation shall prevail.

Art. 33 Invalid ballot cards and candidate votes

¹ Ballot cards are invalid if they

- a) do not include a name of a candidate for the constituency;
- b) are not officially issued;
- c) are not filled in or modified by hand;
- d) contain defamatory statements or obvious markings;

² If the name of a candidate appears more than twice on a ballot card, the extra repetitions shall be deleted.

³ If a ballot card contains more names than seats to be allocated, the last names shall be deleted.

Art. 34 Reporting to the provincial polls office

¹ The municipal election offices forward the ballot protocols together with other auxiliary forms and the ballot cards immediately after compilation to the provincial polls office.

² The ballot cards shall be packaged and sealed, as they have been sorted during counting.

Art. 35 Distribution of seats

The provincial polls office determines immediately the results and the distribution of seats.

Art. 36 Recount

On suspicion of incorrect municipality results, the provincial electoral office either recounts by themselves or orders a recount by municipal election office.

Art. 37 Compilation of the provincial election results

¹ For all constituencies with proportional elections, the provincial election office renders a protocol on the election results according to <Form 5 in the Annex 2>.

² In the minutes, of each party list the names of the elected and unelected candidates shall be listed in the order of votes obtained. The candidates are to be designated by first- and surname, year of birth, place of origin, place of residence and occupation.

Art. 38 Publication of the results

¹ The provincial government publishes the election protocol and permissible legal remedies immediately in the provincial government gazette.

² It notifies the elected and the federal government in writing of the preliminary election results.

³ It shall provide the federal chancellery immediately with an unsigned copy of the election protocol.

Art. 39 Conveyance of the election protocol to the federal council

¹ After the expiry of the appeal period, the provincial government conveys the protocol of the provincial election office, a copy of the provincial government gazette and where applicable complaints and its commentaries to the federal council.

² It shall send, within ten days after the appeal period, the <forms 1-4 according to annex 2> and all ballot cards to the federal office of statistics. The ballot cards shall be packed separately by municipalities.

Art. 40 Resignation and moving up

¹ The federal assembly shall inform the provincial government immediately of resignations in the councils.

² The provincial government shall convey the names of deputies declared as elected without delay to the federal chancellery and publish them in the provincial government gazette.

Art. 41 By-elections

In by-elections, the provincial government invites the representative of the list entitled for the seat to submit a nomination within 30 days.

Art. 42 Circular letter

Before every general election, the federal government shall issue a circular letter containing additional instructions, especially concerning reporting, designing, sorting and adjusting the ballot cards, filling out the forms and determining the results by municipality.

VI. Referendum

Art. 43 Signature lists

At the federal chancellery, samples of a list of signatures in each official language may be obtained free of charge.

Art. 44 Electronic signatures

¹ Electronic signatures are permissible in popular referendi and popular initiatives.

² The provisions of Art. 17ff. apply mutatis mutandis.

³ The referendum committee shall have limited access to the system for viewing the signatures received electronically.

⁴ The electronically acquired signatures shall be submitted automatically to the federal chancellery.

⁵ The originators of the referendum shall not be charged any levies for the use of the system.

Art. 45 Certification of eligibility

¹ The signature lists are to be submitted in time, before expiry of the referendum deadline, to the office which is according to provincial law in charge of certifying eligibility.

² The eligibility is certified if the signatory is listed in the electoral register on the date on which the signature list is submitted for certification.

³ The certification has to state the number of ascertained and the number of invalid signatures in words and numbers; it has to be dated and bear the personal signature of the official in charge and indicate his official function by a stamp or a appendix.

⁴ Certified lists shall be marked with a rubber stamp to prevent their being submitted twice.

⁵ The certificate of eligibility is refused for a certain signature, if the signatory is not eligible in the municipality indicated or if his entry is incomplete or raises doubts about its genuinity.

⁶ If a voter has signed several times, only one signature shall be certified.

⁷ The signatures not certified shall be deleted with red pen and the reason for the refusal noted on the signature list by one of the following keywords:

- a) illegible;
- b) not identifiable;
- c) signed several times;
- d) of the same hand;
- e) not handwritten;
- f) not in the electoral register;
- g) handwritten signature is missing;
- h) incorrect date of birth.

⁸ Upon completion, the certification and the lists shall be returned without delay to the sender.

⁹ The office shall maintain the secrecy of the vote.

Art. 46 Submission

¹ The signature lists shall be submitted separated by province to the federal chancellery

² If the collection period expires on a Saturday, Sunday or a recognized holiday, the referendum may still be submitted during office hours of the next working day.

Art. 47 Determination of the accomplishment

For the determination of accomplishment, the federal chancellery in particular examines, whether the submitted signature lists fulfil the legal requirements and whether they were duly certified.

VII. Popular initiative**Art. 48 Preliminary checks**

¹ If the authors submit the initiative in more than one of several official languages, they must inform the federal chancellery, which version is authoritative for adjusting the text.

² If they submit the initiative in one official language only, the federal chancellery shall translate it, as soon as the initiators have declared the text as final.

³ All the authors of the initiative shall confirm to the federal chancellery by handwritten signature their membership in the initiative committee. The relevant forms may be obtained without charge at the federal chancellery.

⁴ If the signature list contains more names than the initiative committee should include, the federal chancellery deletes the last names.

⁵ The federal chancellery mentions in the ordinance on the preliminary investigation also the names and addresses of all authors of the initiative and publishes it in the federal government gazette.

Art. 49 Withdrawal

¹ Before the ballot is held, the federal chancellery shall issue the initiative committee with a declaration of withdrawal, including a section for the signatures required.

² The initiative committee shall receive a deadline of ten days to submit the withdrawal with all necessary signatures from the members of the initiative committee. The withdrawal declaration shall correspond to the template in <Annex 4> of this regulation.

³ The withdrawal statement and the signatures must be submitted on time at the federal chancellery, if the initiative shall be withdrawn.

⁴ The withdrawal shall be published in the federal government gazette.

Art. 50 Supplementary Provisions

Art. 43 to Art. 47 of this regulation shall apply by analogy to the popular initiative.

VIII. Final Provisions

Art. 51 Authorization of provincial implementing regulations

¹ Provincial implementing regulations for federal legislation which are subject to a referendum shall be submitted to the federal chancellery after holding the referendum or the unused expiry of the referendum deadline; those which are not subject to a referendum shall be submitted after enactment by the competent provincial authority.

² In non-contentious cases, they are approved by the federal chancellery.

Art. 52 Entry into force

The federal government shall determine the date of implementation of this decree.

L Appendix 3: Proposed provincial law on the ballots

The provincial council of [province name], in accordance with [constitution and federal laws] decrees as a law:

I. General Provisions

Art. 1 Scope

¹ This act regulates:

- a) the federal ballots, where the federal law does not prescribe otherwise;
- b) the provincial ballots;
- c) the municipal ballots.

² ballots in the sense of this decree are both elections and referendi.

³ The elections of the district courts are subject to the provisions pertaining to the provincial elections.

Art. 2 Municipal Ballots

¹ Municipal ballots shall be held by the political municipality.

² Requests for ballots held within the other municipalities²⁸ shall be addressed to the respective political municipality.

Art. 3 Federal and Provincial Ballots

¹ Federal and provincial ballots shall be held within the political municipalities.

² In all political municipalities, the ballots shall be held on the same days.

Art. 4 Secrecy of the vote

¹ The secrecy of the vote must be maintained.

² Polling stations shall be arranged to maintain the secrecy of the vote.

II. Organization

Provincial polls office

Art. 5 Provincial polls office

¹ The provincial executive shall appoint a provincial polls office for ballots in federal and provincial matters. The political parties shall be adequately represented.

² The provincial polls office ascertains the results of the municipal polls offices.

Municipal polls office

Art. 6 Voter's registration

¹ All voters eligible in federal, provincial and municipal matters shall be registered on the voters' roll of the political municipality.

² The voters only eligible in federal matters shall be registered separately for each federal ballot.

³ For each ballot, the registered voters shall receive a voting card proving their eligibility.

⁴ The voter's roll is open to the public for inspection.

²⁸ Church-, Burgher- and other municipalities.

Art. 7 Voting cards

The voting card card contains:

- a) ID number, name, first name, date of birth and address of the voter;
- b) the date of the poll;
- c) a declaration that the vote is representing his or her own will for postal voting;
- d) the voting rights pertaining to the voting card²⁹;
- e) URL or phone number, login and password for electronic voting.

Art. 8 Appointment of tellers

¹ The municipal council appoints tellers from amongst the eligible voters.

² The members of the council, the council clerk, the registrar of voters and the usher are not eligible.

Art. 9 Ballot box service

¹ The municipal council summons tellers to the ballot box service.

² For each ballot box at least two tellers shall be summoned.

³ Chairman and clerk of the polls office are excluded from ballot box service.

Art. 10 Polls office

¹ The polls office consists of the chairman and the tellers summoned by the council.

² The polls office shall be manned by sufficient tellers to guarantee an efficient count. The political parties shall be adequately represented.

³ If there are no contrary provisions by the municipal council, chairman and clerk of the council act in the same capacity in the polls office. The chairman partakes in the deliberations of the polls office, but is otherwise limited to chairing negotiations. The clerk has an advisory vote and is otherwise limited to the receipt and compilation of the counting results and keeping the minutes of meeting.

Art. 11 Recusal

¹ The members of the polls office may not exercise office in their own affairs with the exception of the chairman and the clerk who may remain in office when they are candidates themselves.

² The voter's registrar and the usher and their deputies may not participate as tellers.

Art. 12 Auxiliary functions

¹ For menial work, third parties may be employed.

² Technical aids may be used for expediting the counting of votes.

³ The polls office shall monitor the counting.

Art. 13 Place and time of the ballot

¹ The locations and opening hours of the polling stations shall be set by the municipal council so that, where possible, all eligible voters may cast their vote.

² On polling Sundays the polling stations shall close latest at 12:00h.

Art. 14 Early voting

¹ The provincial council sets the date from which ballots are accepted.

²⁹ Limitations to Federal, provincial or municipal elections; special municipalities

² The municipality shall open the polling stations on at least two days of the week previous to the vote on Sunday.

³ The municipality shall accept ballots enclosed in postal voting envelopes at its offices.

III. Arrangement and preparation of the ballots

Art. 15 Elections and referendi

¹ The provincial government sets the dates of the provincial referendi and of the elections in the province, court districts and municipalities.

² Simultaneously elected are the members of the:

- a) National Council and;
- b) Provincial Council and Executive;
- c) Municipal Council and Executive, if the municipal legislation stipulates no other rule.

Art. 16 By-elections

¹ If an office becomes available after regular elections, by-elections shall be held.

² Provincial by-elections are arranged by the relevant provincial department, municipal by-elections by the municipal council.

³ If regular elections are to be held within six months, the by-elections may be waived, if they are not required by important, urgent transactions.

Art. 17 Second ballot

¹ A second ballot takes place, if insufficient candidates have achieved the absolute majority.

² It shall be arranged by the authority which has held the first ballot.

Art. 18 Publication

¹ Elections shall be published at least six weeks before the voting Sunday;

² Silent elections shall be published at least ten weeks before the voting Sunday;

³ Referendi shall be published at least four weeks before the voting Sunday;

⁴ Municipal ballots shall be published in the official publication of the municipality;

⁵ Provincial ballots shall be published in the official gazette of the province;

⁶ The notice includes:

- a) subject and date of the ballot;
- b) place and date of the submission of nominations;
- c) date of the second ballot;
- d) place and date of filing of nominations for the second ballot.

Art. 19 General provisions for nominations

¹ Nominations have to be signed by at least 15 voters eligible in the respective constituency;

² Only eligible candidates who have agreed to their nomination may be nominated.

³ A nomination is valid if it includes:

- a) the designation of the ballot;
- b) surnames and first names, dates of birth, occupations and residential addresses of the applicant and the signatories;

c) the declarations of consent of the candidates to run for office.

⁴ Each nomination list is supplemented with the name of a representative and a deputy. Else the first and second signatory are deemed nominee and deputy.

⁵ A nomination may not contain more candidates than seats to be allocated, else the last names will be deleted;

⁶ Candidates and signatories cannot withdraw their signatures after filing of the nominations. They may not appear on more than one nomination.

⁷ The deadline for accepting nominations is set in provincial elections by the relevant department and in municipal elections by the competent body of the municipality.

⁸ The nominee, or his deputy, submits on behalf of the signatories the statements required for the regularization of the nominations.

⁹ The nominations and the names of the signatories may be viewed at the relevant department, in municipal elections at the competent authority of the community.

Art. 20 Nominations in majority elections

¹ Nominations may be submitted in majority elections.

² Nominations for the district court chief judges shall be supplemented by evidence of the fulfilment of the election requirements of the [court act]³⁰.

³ The nominations shall be listed in the election brochure.

⁴ The nominations may be submitted via an electronic nomination submittal system.

Art. 21 Nominations in proportional elections

¹ Nominations are compulsory for candidates in proportional elections.

² No name may appear more than twice on a nomination.

³ The nomination has to bear a designation distinctive from the others.

⁴ The regularized nominations are called lists.

⁵ They are numbered sequentially in the order received.

⁶ The nominations may be submitted via an electronic nomination submittal system.

Art. 22 Verification of nominations

¹ The relevant department shall examine each nomination, removing the names of non-eligible candidates and if necessary, sets the representative of the signatories a deadline, to supplement subsequently missing signatures, submit proposals for replacement of officially canceled nominees or improve the designation of nominees for the purpose of better distinction from other nominees.

² The replacement proposals shall be supplemented by a written statement by the nominees that they accept the candidacy. In the absence of such a statement or if the name in question appears already on another nomination or if the candidate is not eligible, the replacement proposal is deleted.

³ Unless the representative of the signatories requests otherwise, the replacement proposals will be appended at the end of the nomination proposals.

⁴ If a deficiency is not remedied within the prescribed period, the nomination is invalid.

⁵ Electronic nominations shall be verified electronically

Art. 23 Silent election

¹ Silent election is permissible for:

³⁰ The name and relevant article of the court act have to be filled in. Election requirements will usually include proof of a university degree in law and possibly a bar exam.

- a) Council of states and provincial executive in the second ballot;
- b) District courts in the first and second ballot;
- c) local authorities in the second ballot.

² Silent election takes place when the number of all valid nominations listed is equal to the number of mandates to be allocated.

³ The competent authority of the municipality, in provincial elections the relevant department decides on the establishment of silent election and publishes the decision.

Art. 24 Voter's addresses

The voting registrar shall supply the addresses of the eligible voters against reimbursement of the expenses, if they are used for advertising in ballot campaigns.

Art. 25 Voting papers

¹The voters must be in possession of the voting papers at least three weeks before the ballot. In proportional representation elections, second ballots and votes held on the same day, the deadline is ten days.

² If a voter has not received his voting papers until the fifth day before the voting Sunday, he shall request them at the voter's registrar until the last office hour before the voting Sunday.

IV. Polling stations

Art. 26 Monitoring the ballot boxes

¹ During opening hours, two tellers shall be present without interruption at the ballot box and ensure the observance of the legal rules.

² The tellers are to pay particular attention to the fact that:

- a) the ballot box is empty at the beginning of the ballot;
- b) the voter only casts a single envelope into the ballot box;
- c) there are no voting recommendations present or posted near the ballot boxes or in the antechambers.

³ The tellers may neither investigate on the contents of the ballots nor influence the voters or assist them in filling in their ballots or inserting them into the envelope. The same prohibition applies to other people in the polling station or at the mobile ballot box. Frail people may be assisted by an accompanying person.

⁴ No one may be present longer than necessary in the polling station.

Art. 27 Closing and re-opening the ballot boxes

¹ Immediately after the end of opening hours, the ballot box is to be sealed³¹ in such a way that the contents can not be changed.

² The ballot box may only be opened:

- a) for the continuation of the vote, when the tellers allotted to the opening time are present;
- b) for counting, when a committee of the polls office supervises the opening.

Art. 28 Unrestricted access to ballot boxes

¹ The unimpeded access to the ballot box during the opening hours must be maintained.

² In front of and inside the premises it is forbidden:

- a) to distribute ballot cards or advertising matters;
- b) collecting signatures or donations;

³¹ Paper seals are used for this purpose.

- c) offering food or beverages;
- d) carrying weapons.

V. Determining the results at the municipal polls office

Art. 29 Validity of the ballot cards

The provisions of Art. 10 of the federal decree on the political rights shall apply mutatis mutandis.

Majority Elections

Art. 30 Drawing lots in a draw

The lot is drawn in provincial elections by the provincial chairman in the presence of the provincial executive, in the remaining elections by the chairman of the polls office in the presence of the other members of the office.

Proportional Elections

Art. 31 Regularization of valid ballot cards

The provisions of Art. 10 and Art. 33 of the federal decree on the political rights shall apply mutatis mutandis.

Art. 32 Allocation of seats

The provisions of Art. 30 of the federal law on the political rights shall apply mutatis mutandis.

Art. 33 Candidates elected

¹ Of each list, according to the respective allocation, the candidates who have received the most votes are elected.

² The candidates not elected are deputies in order of the votes obtained.

³ In a tie, the order is determined by the lot.

⁴ If one or more lists are allocated more seats than they contain names, they may submit additional candidates which shall be elected in by-elections.

Referendum and popular initiative

Art. 34 Adoption of referendi and popular initiatives

¹ A referendum or a popular initiative is adopted if it attracts more valid votes in favor than against.

² In a tie, it is rejected.

VI. Counting

Art. 35 Opening the ballot box

¹ After opening of the ballot box in attendance of all staff of the polls office, the ballot cards shall be separated in invalid, completely empty and valid ballot cards. The valid ballot cards shall be separated into unchanged list of each list and altered ballot cards.

² The altered ballot cards for each list and the ballot cards without designation of the list or respective reference number shall be separated and its content regularized.

Art. 36 Procedures

¹ A committee of the polls office mixes the contents of each ballot box before counting.

² The counting is done in groups of at least two tellers.

³ In disagreements or doubts the entire polls office decides.

⁴ A very tight vote is to be re-counted before it is recorded.

Art. 37 Protocols

¹ The municipal polls office protocols the results of the ballots.

² The protocols shall be signed by the chairman, the clerk and two other members of the polls office.

³ The protocols of the ballots shall be forwarded immediately by telephone, fax or e-mail to the relevant provincial department.

Art. 38 Retention of ballots

¹ The ballot cards shall be, in the case of several ballots separately, packaged and sealed in attendance of the staff of the polls office.

² The ballot cards of federal matters shall be sent immediately to the relevant department.

³ The ballot cards of provincial and municipal matters shall be stored by the municipality up to the final settlement of complaints, but at least a month after the ballot.

VII. Reporting

Art. 39 Determining the municipality results

¹ The polls office shall determine the municipal results of the ballot.

² If several ballots are held on the same day, the municipality result is determined in the following order:

- a) federal ballots;
- b) provincial ballots;
- c) district court ballots;
- d) municipal ballots.

³ The polls office may start the counting on the morning of the voting Sunday. It ensures that no partial results are communicated to the public.

Art. 40 Results to be reported

¹ The polls office reports the number of:

- a) eligible voters;
- b) voting cards submitted;
- c) valid, invalid and blank ballots;
- d) valid votes cast for or against a referendum.
- e) votes, which the candidates of each list have achieved (candidates votes);
- f) votes which each list has received by empty lines (additional votes);
- g) candidates' and additional votes, which each list has achieved (party votes);

Art. 41 Notification of the relevant department

¹ The polls office immediately notifies the relevant department of the provincial administration about the results of federal and provincial ballots

VIII. Determining the results at the provincial polls office

Art. 42 Compilation of results

¹ The relevant department determines the results of provincial ballots by compiling the protocols of the municipal results. It compiles the numbers reported according to Art. 40.

Art. 43 Decisions by the lot

¹ If a decision is precipitated by the lot, this shall be effected by the chairman of the provincial polls office in the presence of at least three other members.

IX. Announcing the results of the ballot

Art. 44 Publication

¹ The municipal result will be announced by public posting and in the official publication of the municipality.

² The results of provincial ballots shall be published in the provincial government gazette.

Art. 45 Elected candidates

¹ Candidates elected into a provincial or federal office are notified by the relevant provincial department.

² Candidates elected into a municipal office are notified by the municipality.

³ They may reject the office within fourteen days, if acceptal is not compulsory.

⁴ Resignation statements shall be submitted to the authority which notified the election.

Art. 46 Validation

¹ The provincial council shall decide on the validity of the election of its members.

² On request of the provincial government, the provincial council may nullify a provincial election.

X. Final Provisions

Art. 47 Complaints

¹ Any registered voter may lodge a complaint against provincial ballots with the provincial government.

² The complaint must be lodged within three days of knowledge of the grievance in writing and not later than the third day after the official announcement of the result. The complaint must contain a request, a brief presentation of the facts and a substantiation. It must be signed.

³ Valid reasons are irregularities in the preparation or conduct of the ballot. They are deemed reasons for revocation if they were or could have been of decisive influence on the outcome of the ballot.

Art. 48 Date of implementation

The provincial government shall determine the date of implementation of this law.