

“Access to information on voters’ lists”

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The problem we have to discuss on this workgroup is the access to information on voters’ lists and voters’ registers. As it often happens in public relations there exists a problem of collision between different basic legal principles.

Voters’ lists are the instrument of ensuring the universal suffrage. Everybody entitled to the right to vote has to have a possibility to vote. At the same time voters’ lists must guarantee one-fold voting by every voter. This means that every voter can be placed on voter’s lists only once.

The identification of a voter included to the voters’ list is made using his/her personal data – the name, date of birth, place of residence; sometimes some additional data are used. And this is the moment when a dilemma arises.

On the one hand, due to the principle of privacy personal data of every private person must be protected from illegal access and improper use.

On the other hand, correctness of voters’ lists is one of important aspects for realization of one of the basic principles of democratic elections, namely the principle of fair elections. Thus, there exists a necessity of public control of their correctness which needs a public access at least to some of personal data of voters’ lists. I’d like to remind that the Code of Good Practice in Electoral Matters declares: “The electoral registers must be published” (par. 1.2.iii).

Naturally every state solves this collision in its own manner proceeding on a base of social traditions and political situation.

I have to describe shortly the solution of mentioned dilemma which is adopted now in my country – in Ukraine. It’s obvious that such a solution cannot be considered as the best one or even the most appropriate. Nevertheless I’d like to notice that the experience of realization of the basic principles of electoral law in transitional and semi-democratic countries as Ukraine is now shows sometimes some aspects of these principles which are traditionally unnoticeable in traditionally democratic countries.

A great majority of the Council of Europe member states started (some of them for centuries ago) permanent registration of citizens, population, or voters. In Ukraine, the State voters’ register is functioning only for couple of years; the electronic database of the Register contains personal data of about 35 million of citizens of Ukraine who are eligible to vote. Thus our experience of solving the above mentioned dilemma is very young.

Obviously the set of personal data of every voter necessarily contains some information which should be considered as a confidential one. We, in Ukraine, have selected the way of minimization of such information to the really necessary level. That is why we have the voters’ register rather than the register of population.

Nevertheless a part of voters’ personal data must be public. It concerns the data identifying a voter personally, his/her status as well as ensuring one-fold including him/her to the Register and to voters’ lists. These data are: the name, a year (in the case of young people voting first time – a month and a day) of birth and a place of residence (or electoral address). Other data are considered to be closed. The access to the closed part of the Register database is permitted only partly and only for the specially authorized employees of the Register maintenance bodies. Such access is realized with the special electronic key separated in two parts; two employees possess

different parts of the key. Any other access to the whole electronic database of the Register is denied both in the recording and copying regime.

Speaking on the public access to the open part of the voters' personal data we should distinguish two different situations. One of them is the access to the open data of the voters' Register which could take place regardless to the election process. Another situation concerns access to voters' lists (or voters' rolls) the latter being documents used during voting on elections in polling stations.

Despite the absence of the access to the electronic database for persons not authorized for it the law foresees some mechanisms to obtain information given by the Register maintenance bodies.

First of all, every voter has a right to become acquainted in any time with his own personal data in full on his request to the corresponding Register maintenance body, but only on paper. It corresponds to the constitutional demand of free access of every citizen to the information concerning himself. A voter can also make objections against some data the content of which he/she considers as being wrong.

Secondly, everybody can obtain for request open data of all voters with the applicant's electoral address.

Thirdly, the parties represented in Parliament are eligible to get once a year an electronic copy of the database of the Register (without confidential data) safe from copying. A party can use these data for public control of the corresponding information during two months and then has to give the disc back to the Central Election Commission.

Fourthly, the statistical information on the number of voters in different territorial administrative units (oblast, rayon, city, town, village) is available in an open access on the official web-site of the Central Election Commission which is updated every month. It gives a possibility to observe changes of the voter number in dynamics.

Any other cases of access to information of the Register database could be permitted only by a court decision. Thus, as you see, the access to the electronic database of the Register is strongly limited. The open information is available in all cases only on paper.

Voters' lists as documents for polling stations are compiled on the base of Register data by corresponding Register maintenance bodies after the beginning of an election process. Voters' list contains open data only, including voter's place of residence.

Polling station electoral commission obtains voters' list in twenty days before the elections day. Beginning from the next day till the elections day voters' lists are open to everybody. I'd like to stress that every voter can re-examine voters' lists on every polling station irrespectively of being included to the corresponding voters' list. Nevertheless he/she is not allowed to make a copy of this document.

To sum up, we, in Ukraine, have chosen the way of maximal transparency of the open part of voters' personal data both in the Registers and in voters' lists but only in a paper form. We consider it to be the way to promote correctness of voters' lists, to avoid mistakes as far as possible and to prevent from abuse and fraud. In this case the principle of personal privacy must give place to guarantees of electoral rights of many people which needs openness of corresponding minimal set of voters' personal data. On the other hand the access to the State voters' register electronic database is strongly limited which is considered as means of its integrity and security.

This is the solution adopted in Ukraine. Other countries could select different priorities which would lead to different solutions. I hope it'll be interesting to discuss these issues.