Electronic voting and null votes: a pending debate

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1. General scheme

• Three questions, three answers:
  – Should an electronic voting system recognise the possibility to vote null?
  – How it can be implemented?
  – What’s the legal matter of null votes attributed to technology?
2. General theory: the notion of null vote

• Notion: a vote which is declared illegal because it is in a situation of non-compliance of electoral norms.

• The vote doesn’t respect the legal requirements, so consequently the vote doesn’t have legal existence.
### 3. Null votes and blank votes: two different concepts

<table>
<thead>
<tr>
<th>BLANK VOTE</th>
<th>NULL VOTE</th>
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</thead>
<tbody>
<tr>
<td>• The elector doesn’t manifest political preference: he doesn’t choose any option</td>
<td>• The elector doesn’t respect the legal requirements during the voting operation.</td>
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<td>• The situation is allowed in several legal systems</td>
<td>• The situation implies the non-compliance of the electoral rules.</td>
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<tr>
<td>• The vote has legal existence: it will be entered into the computation.</td>
<td>• The vote doesn’t have legal existence, and it won’t be entered into the tabulation.</td>
</tr>
</tbody>
</table>
4. Other closely linked terms

**SPOILT VOTE**
- The ballot is inadvertently damaged before the introduction into the ballot box.
- The elector can obtain a new one in order to repeat the voting operation.

**REJECTED VOTE**
- It refers to a ballot introduced into the box but rejected during the counting because a non-compliance situation of legal requirements.
- Generally speaking, it could be a synonymous of null vote.
5. The Spanish case an example

  - Causes of nullity
  - The principle of the non-alterability of the ballot
- Other two cases/examples:
  - Italy
  - France
6. The null vote as protest vote

• Two different type of null votes from a political perspective
  – 1) The classical perspective: a nullity due to an error or inexperience of the elector
  – 2) The new political phenomenon: the contravention of the electoral legal requirements is produced by a deliberated decision of the voter, which would like to show through the nullity his political discontent or disagreement.
• The remotion of accidental null votes is a clear achievement of e-voting systems.

• But in relation to deliberated null votes the remotion could be counter productive, because the null vote has a new political role whose aim is to show the elector political discontent.
7. First question, first answer (ii)

- The right of suffrage covers blank votes and also null votes
- The presence of null votes – as protest votes – could increase the democratic quality of the election
- Consequently, electronic voting system should ensure the presence of null votes (understood as protest votes)
8. Approach to our second question

• How we can cast a null ballot?

• Two possible options:
  – 1) The possibility to choose a null vote (rejection or protest vote) as one more option among the other political options
  – 2) The possibility to choose + the possibility to write a rejection message.
9. Null votes attributed to technology: a legal rigmarole

• What’s this? Null votes generated by a technical misconfiguration, not linked to voter behaviour.

• The voter does all that is necessary but it appears an internal misconfiguration which produces the loss of the vote.

• Three cases: Estonia, Australia, Norway
10. Estonia

- 2011 Estonian Parliamentary Elections
- One vote was determined invalid by the voting application, since it was cast for a candidate who was not on the list of constituency.
- Hack attack or internal failure? \(\rightarrow\) lack of trust \(\rightarrow\) democratic problem
11. Australia

• 2011 New South Wales Elections (Australia)
• An internal failure of the java-script allowed the presence of non-numerical characters as ballot preferences → the misconfiguration affected 43 ballots.
• The problem is similar to the Estonian case
12. Norway

- 2011 Elections
- A voter managed to cast the ballot during the last second of the voting session, but the ballot arrived few moments after the timeframe expired
- The “rescue” of this loss vote: is it possible?
13. Conclusions

• 1) The e-voting systems should ensure the presence of null vote as protest vote.
• 2) This “presence” could be implemented through the possibility to choose the null vote as one more electoral option, with or without a rejection message
• 3) There is a pending and non-closed debate in relation to loss votes due to technical errors.
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THANK YOU FOR YOUR ATTENTION!