

LEGAL, OPERATIONAL AND
TECHNICAL STANDARDS
FOR E-VOTING

Recommendation Rec(2004)11
adopted by the Committee of Ministers
of the Council of Europe
on 30 September 2004

The Council of Europe and e-voting:

History and impact of Rec(2004)11

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EVOTE2014 – 30 October 2014

How it started ...

- The new Millennium: Governments increasingly think about ICT in elections
 - all kinds of hopes and expectations (new technologies attractive; high expenses should pay off in the long run)
- First pilots/tests using internet voting
- Relatively little controversy, trust surprisingly high
- No guidelines or standards to draw upon
- International institutions or fora not yet active

Motivation ...

*“ ... perception that citizens lost interest in politics ...;
... drop of participation rates in elections and referenda.”*

Council of Europe Website

“... Citizens rightly expect to be able to vote in a straightforward, accessible, and efficient way, being able to have confidence in the security and integrity of the poll. (...) Governments, therefore, are being faced with requests from their citizens to introduce new technologies in the electoral processes, in particular to make available various forms of e-voting.”

British opinion paper (2002)

Council of Europe



- International organization based in Strasbourg (France)
- Founded in 1949; 47 member states
- Strong focus on legal standards, human rights, democratic development, rule of law, cultural co-operation

Council of Europe

“Making democratic institutions work“

- Integrated Project from 2002 to 2004 (**IP 1**)
- 1st Exploratory Meeting on e-voting: 1-2 July 2002
 - UK Paper: *“Urgent need for an internationally agreed set of standards on e-voting to guide member states; standards should embrace legal, technical and operational standards“*
- Experts‘ meetings to be initiated (at least 1 lawyer, 1 technician)

Ad-hoc group of experts

“E-Voting Committee“ at the Council of Europe

- 13 Meetings from July 2002 to July 2004
- Sub groups: legal & operational standards; technical standards
- Austria: represented by Federal Ministry of the Interior, Federal Chancellery (Prime Minister's Office) and Federal Ministry for Foreign Affairs
- Goal: Recommendation

Recommendation Rec(2004)11

- Intergovernmental format for decisions
- Proposal for a recommendation passed by experts in July 2004
- Adopted by Committee of Ministers on 30 September 2004
- Relatively short text: 112 standards + Explanatory Memorandum
- Non-binding document (no Convention!)

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Recommendation Rec(2004)11

Key elements (inter alia):

- “States should consider reviewing their relevant domestic legislation in the light of this Recommendation”
- No need to change domestic legislation “as long as these domestic voting procedures comply with all the principles of democratic elections and referendums”
- E-voting to be as reliable and secure as democratic elections and referendums which do not involve the use of electronic means
- Additional and optional voting channel
- Checklist for all stages of the electoral process
- Minimum standards for remote and non-remote e-voting
- Interoperability of e-voting systems to be promoted and ensured

“Good Governance in the Information Society“

New Council of Europe Project from 2005 to 2010 (end)

E-Voting

- Review Meetings of Rec(2004)11
- Working on papers, evaluation reports, commentaries, etc.

E-Democracy

- Working Group CAHDE (Council of Europe’s Ad Hoc Committee on e-democracy)
- Recommendation Rec(2009)1 on e-democracy (adopted by Committee of Ministers in 2009)

Review Meetings re: Rec(2004)11

Para. v. of Rec(2004)11:

First review after two years “in order to provide the Council of Europe with a basis for possible further action on e-voting”

1st Review Meeting: 23-24 November 2006, Strasbourg

Rec. accepted by member states “as a valid and currently the only internationally agreed benchmark by which to assess and evaluate e-voting systems.”

2nd Review Meeting: 15-17 October 2008, Madrid

3rd Review Meeting: 16-17 November 2010, Strasbourg

4th Review Meeting in 2012, 5th Review Meeting in 2014.

2nd E-Voting Review Meeting

15-17 October 2008, Madrid

Conclusions

”(...)The Forum encourages the Council of Europe to maintain its prominent role in this important and complex field (...).
Recent developments in the field of e-voting have shown that increased attention should be paid to certification and observation to guarantee security and transparency and to build trust in the electoral process. (...)“

Finishing the Project “Good Governance in the Information Society“

- **“Certification”**: 3 expert meetings in Strasbourg and discussions at E-VOTE Conference in Lochau/Bregenz in July 2010
- **“Observation”**: 1 expert seminar in Oslo and discussions at E-VOTE Conference in Lochau/Bregenz in July 2010
- **3rd E-Voting Review Meeting** (16-17 November 2010, Strasbourg): Reports of countries and organisations; no official mandate for change of Recommendation (“still considered useful instrument”)

- **New Documents:**
 - “Guidelines on transparency of e-enabled elections“
 - “Guidelines on certification of e-voting systems”
 - “E-Voting Handbook” of the Council of Europe

Rec(2004)11 used as a reference

- Norway: incorporated most of Rec's standards into regulatory framework for 2011 and 2013 internet voting trials.
- Belgium: 2007 study on e-voting (reference, benchmark)
- Estonia: Supreme Court considered Recommendation when deciding about the constitutionality of e-voting.
- Finland: 2008 pilot took Rec. into account.
- Switzerland: Recommendation "on the radar"
- Austria: drawn upon for 2009 Federation of Students' e-voting
- OSCE/ODIHR: Reference when monitoring "New Voting Technologies"

Also used by other int'l organizations and countries overseas.

Towards an update?

- No more Council of Europe project since 2010.
- Competent division in the Council of Europe: “Division of Electoral Assistance and Census” (Directorate of Democratic Governance as part of Directorate General of Democracy)
- **4th Review meeting in Lochau/Bregenz in 2012:**
 - Rec(2004)11 still precious but number of issues outdated or not dealt with any more.
 - Member States “agreed to recommend that the 2004 Committee of Ministers’ Recommendation (...) should be formally updated.”.
 - “... biennial review meetings were highly useful and should be continued (...)”

Informal Experts' Meeting in Vienna

- Austria offered to facilitate further exchange within framework of Chairmanship in the Council of Europe (Nov. 2013 – May 2014).
- Informal experts' workshop in Vienna on 19 December 2013 organized by Secretariat of Council of Europe in co-operation with Austrian Federal Ministry of the Interior.
- Report “on the possible update of Rec(2004)11” commissioned by the Council of Europe (author: Ardita Driza Maurer).
- Country reports and discussion about scope and elements of a possible update.

Outcome of Informal Experts' Meeting in Vienna

- More than a decade ago, developing the 112 legal, operational, and technical standards was a “rather theoretically driven exercise”.
- “ ... there are a number of strong and valid reasons for updating Recommendation Rec(2004)11.”
- Do not rewrite Recommendation but update where necessary.
- “Necessary legal and technical expertise should be made available during the drafting process.”
- Future budget should allow work on updates of Rec(2004)11.
- Exact terms of update left to the Council of Ministers of the Council of Europe.

Further steps in 2014

- Ministers' Deputies/Rapporteur Group on Democracy (GR-DEM) on 20 May 2014
→ report of Vienna meeting discussed but no final decision; future of e-voting activities remained uncertain.

- Austria sponsored non-paper with Belgium, Estonia, Hungary, Latvia, Poland and Switzerland → call for a 5th Review Meeting to take place in Autumn 2014.

- GR-DEM Meeting on 17 June 2014: Council of Europe confirmed further support and organization of another Review Meeting.

- Review Meeting scheduled for 28 October in Lochau/Bregenz.

5th Review Meeting

- Organized on 28 October 2014 in Lochau/Bregenz (Austria as co-host), right before EVOTE2014.
- 15 countries present, additional countries submitted reports.

- **Conclusions:**
 - “... update of CM Rec(2004)11 should be undertaken in a concentrated way by a special ad hoc group of experts, as soon as possible, but at the latest in the intergovernmental structure within the next Programme and Budget 2016-17.”
 - “... group of experts should be composed of government representatives from election management bodies supported, as necessary, by other relevant stakeholders such as academia, industry, and civil society.”

Outlook

- No more “e-voting hype” in Europe but various international experiences.
- Reasons for decline of e-voting euphoria multifaceted.
- European Citizens’ Initiative (since 2012) triggered new interest in online participation in Europe.

- Recommendation Rec(2004)11 still the only international legal instrument regarding e-enabled voting
- Council of Europe still the only organization in Europe to set intergovernmental standards in the field of e-voting

→ Next steps for a formal Recommendation update ahead.

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Thank You!