

I HAVE A RIGHT TO VOTE

LET US PREVENT FAMILY AND PROXY VOTING





ONE VOTER - ONE BALLOT STOP FAMILY AND PROXY VOTING

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INTRODUCTION

The right to vote is one of the fundamental human rights in the modern world. Elections, today, are the basic source of governmental legitimacy. But only free and fair elections based on general, equal and secret suffrage represent a basis for democracy. Only elections where each elector can freely, personally, secretly and directly exercise his right to vote can be assessed as democratic in accordance with international rules and standards.

Unfortunately, international and domestic observers have noticed weaknesses in the electoral process in several consecutive past electoral cycles in our country (1998, 1999, 2000, 2002, 2004, 2005, 2006, and 2008), such that include violation of the electoral right by disrupting its secrecy and equality. The reports and comments of OSCE/ODIHR, IFES, the observation missions

See Reports of OSCE/ODIHR on parliamentary elections on 18 October and 1 November 1998, presidential elections on 31 October and 14 November 1999, parliamentary elections on 15 September 2002, presidential elections of 14 and 28 April 2004, local elections of 13 and 27 March and 10 April 2005 and parliamentary elections on 5 July 2006 and the parliamentary elections on June 1, 2008

of the Parliament Assembly of the Council of Europe , the UN Committee for Elimination of Discrimination against Women and others indicate cases of group, family voting, as well as cases of proxy voting.

This leads to a defeating conclusion: in the 21st century, on European soil, some citizens do not exercise their right to vote as it is guaranteed by domestic and international legal acts.

In view of the above-mentioned reports by the OSCE/ODIHR and other international organizations and NGOs, that have acknowledged the family and proxy voting as one of the major problems to be excluded from the electoral practice, the UNDP Country Office in partnership with State Election Committee has launched a comprehensive project to tackle the issue under the title “I Have a Right to Vote”.

The project is a multifaceted one and includes different target groups and different methodologies and activities to achieve the overall goal of eradicating family and proxy voting.

Among the beneficiaries of the project are the election authorities, the political parties, party and domestic observer groups, representatives of civil society, NGOs, media and the voters. A special emphasis has been placed on the vulnerable groups, such as women and young voters.

A central element of the project is training of the election authorities at different levels in order to enhance their capacity to tackle the problem of family and proxy voting, in particular, by conducting Training of Trainers for the Municipal Election Boards, whose members would be able then to transfer their knowledge to the members of the Election Boards

‘Survey Report of Election Officials in the Republic of Macedonia; Parliamentary Elections 2002’, IFES, 2002, p. 17.

Council of Europe Congress of Local and Regional Authorities, ‘The exercise of women’s individual voting rights: a democratic requirement - CG (9) 7 Part II Explanatory Memorandum’, 2002.

See the concluding comments of the Committee on the Elimination of Discrimination against Women by United Nations Committee on the Elimination of Discrimination against Women, from 3 February 2006

throughout the country, as well as direct trainings to number of Electoral Board members, especially in the pooling stations where cases of family and proxy voting were recorded.

The other two target groups, who are to receive the necessary knowledge and skills under this component of the UNDP project “I Have a Right to Vote” are the monitors from, respectively, the political parties and domestic observers groups.

The goal of this handbook, entitled “I Have a Right to Vote: Stop Family and Proxy Voting” is to facilitate the training process and serve as a guidance for the country’s electoral authorities, political party and domestic groups observers in the context of a better understanding of what is family and proxy voting, what is the monitoring methodology and, in the final analysis, how to eradicate this negative phenomenon from the electoral practice of the country.

Given the fact that family voting represents a misuse of the electoral right, which is neither permitted, nor characteristic for democratic systems, the goal of this handbook, more specifically is to:

- aid the strengthening of awareness that an electoral right is general, equal and secret
- help the attempts to prevent negative experiences with family and proxy voting to occur in any future elections
- promote dedication among both domestic and international electoral observers to assessment of women’s electoral participation, for the purpose of removing gender discrimination in the electoral process.

In order to achieve those goals, this handbook:

- shall remind of the existing occurrences of family voting in several electoral cycles in our country
- shall point to the international standards forbidding family voting
- shall point to the recommendations of the relevant international authorities and organizations for preventing family voting

- shall point to the domestic legal framework which guarantees the general, equal and secret suffrage and forbids and incriminates family voting and
- shall point out the role and responsibility of authorities in charge of conducting the elections in preventing the misuse of the electoral right.

With those goals in mind, this handbook is primarily intended for:

- members of bodies in charge of conducting the elections
- representatives of the political parties i.e. the representatives of the members of the party submitting the list for the elections
- election observers, but also for voters (those who are potential victims of violation of the electoral right and those who may find themselves in a situation to break the law, jeopardizing or violating the electoral rights of others).

This handbook is organized into eight parts and two annexes:

Excerpts of the international observation missions reports during several election cycles in our country presented in chapter one of this handbook indicate family and proxy voting as a chronic problem which is present in our country.

Chapter two gives a general overview of the terms family and proxy voting, indicates their reasons and the shapes in which international framework prohibits family and proxy voting and promotes gender equality in the electoral process.

Chapter four is dedicated to the responsibility of the State Election Commission in the prevention of family and proxy voting.

Chapter five contains the rights and obligations of the electoral commissions and electoral boards in the prevention of family and proxy voting.

Chapter six explains the roll of the political parties in preventing family voting and proxy voting, as well as the rights and authorizations at the disposal of the authorized representatives of the parties submitting the lists in case of family and proxy voting.

Chapter seven indicates what observers can do if, during the observation of the electoral process, they are faced with family and proxy voting. This part also contains questions and a model questionnaire which the observers must take into account in order to detect family and proxy voting.)

Chapter eight presents the punitive provisions regarding family and proxy voting.

Two annexes are enclosed at the end of the handbook. Annex one contains the recommendations of some international organizations and institutions for prevention of family and proxy voting, while annex two contains an excerpt of provisions from the Electoral Code which are directly or indirectly connected to family or proxy voting

I HAVE A RIGHT TO VOTE



CHAPTER ONE

The problem of family voting as a chronic one

The goals, methodology and ways of implementation of the UNDP project “I Have a Right to Vote” have been elaborated having in mind not only the general framework of the problem, but also, first and foremost, the concrete background and problem-generating factors in the country.

In general terms, the practice of family voting has been first recorded in election observer reports from newly democratizing Central and Eastern Euro-pean countries in the early 90s. Although these countries had made constitu-tional and legal provisions for equality between women and men, the right to vote and the secret ballot, these provisions were not always fully implemented.

At present in our country as regard to the right to vote, women’s effective participation in political life is threatened by the resilience of such electoral abuses as family and proxy voting.

More precisely, family and proxy voting appear to be most prevalent among ethnic groups in remote areas. This situation stems from a number of factors: political and cultural attitudes that fail to recognize women’s rights to full and equal participation in the country’s political life along with men; lack of opportunities for women’s involvement in public life; prejudices and stereo-types, etc.

Overall, this Handbook is developed and published under the UNDP project “I Have a Right to Vote” focus on the phenomenon of family and proxy voting, its negative impact on the overall outcome of the elections, the legal framework and practical steps to be taken by the election authorities and party and domestic groups observers to effectively eradicate the problem.

At the same time, the Handbook’s chapter one is devoted to the analysis and assessment of that negative phenomenon as reflected in the reports of international observation missions, conducted during several election cycles in our country.

The Handbook users’ acquaintance with the below provided excerpts will undoubtedly help realize the acuteness and urgency of countering family and proxy voting in all its complexity.

EXCERPT OF THE REPORTS OF INTERNATIONAL OBSERVERS

Parliamentary elections, June 1st , 2008 OBSE/ODIHR

Family voting was one of the more widely spread irregularities observed by the observers on election day. Family voting mainly means that a male member of a household directs the women in the family in the process of voting or votes instead of them. This phenomenon violates the right of women to privacy during voting and deprives them of their right to vote. There was a notable ethnic inequality regarding this issue; observers reported cases of family voting in 34% of the observed polling stations with a majority of ethnic Albanian population, with this figure in the remaining parts being 12%. On many occasions, the heads of election committees made no efforts to prevent men from going in the voting booths together with the female members of the family. It was also noticed that the serious concern with family voting was rejected, since such practices is “traditional” for many in the ethnic Albanian community.

Parliamentary elections, 5 July 2006 OSCE/ODIHR

Yet again, group voting still widely prevails, especially in rural areas of the western part of the country, where women have in fact been deprived of their right to vote in places where group voting occurred.

Proxy voting (a person who votes on behalf of another person) was noticed in 4% of the visited voting stations, and multiple voting (a person who is given and who votes on multiple ballots) in 2% of the cases. Group voting remains a main problem, and such voting was noticed in 20% of the voting stations. Group voting has prevailed more in places where the national minorities are more present (in 31% of cases in comparison with 10% of the cases of places where ethnic Macedonians are dominant). Voting secrecy has not always been preserved and respected. In 13% of the visited voting stations, the voter did not always fill the ballots in secrecy.

Attempts to influence voters have been reported in 3% of the voting stations, while attempts where one person «helping» multiple voters has been reported in 4% of the cases.

Local elections, 13 and 27 March and April 2005

OSCE/ODIHR

Round one, 13 March

Among the irregularities, which were witnessed by MNMI observers, there were cases of filling the ballot boxes, stealing ballots, open, group and proxy voting. ..

Round two, 27 March

The irregularities reported by MNMI observers included stolen ballots, intimidation, filling ballot boxes, group and proxy voting, identical signatures in the excerpts of the Electoral List and other mistakes and shortcomings of the procedure.

Presidential elections, 14 and 28 April 2005

OSCE/ODIHR

Round one

Group voting was also noticed at the voting stations, which reached as much as 20% in the ethnic Albanian areas. Although group voting, which was noticed mainly with families, represents a serious infraction of voting secrecy, we must emphasize that this number has been reduced in comparison with the previous elections.

Round two

Proxy voting has been reported in 2% of the observed voting stations. There are reports of identical signatures placed in the electoral list – which also insinuates possible filling of the voting boxes or proxy voting – in 6 % of the observed voting stations.

Voting secrecy has not been respected in 6% of the observed voting stations.

Report on the local elections observation mission - 10 and 24 September 2000

Congress, CG/CP (7) 12 rev

In certain areas of the country, the Congress delegation found a great many instances of family heads voting on behalf of all the members of the family, such as wife and children, clearly an infringement of individual voting rights. The delegation condemned numerous irregularities concerning multiple voting, at which certain polling stations, and even electoral commission officials connived. This finding was confirmed in the second round of voting.

While such a practice might be understandable in cases of need, such as sight or other disabilities, the delegation cannot accept that one person should determine how a whole family is to vote. Some observer teams also witnessed ballot stuffing operations, when one person arrived with several voters' cards and lodged multiple votes. In these same polling stations, the delegation observed record turnouts (in the order of 95%) and a real plebiscite for one of the candidates.

Presidential Election - 31 October and 14 November 1999

OSCE/ODIHR

Round 1

As in 1998, the most significant problems identified by observers were proxy voting in 9.41% of polling stations observed and group voting in 14.9%. Observers saw instances of one person arriving with multiple voter cards or the ballot box containing ballots folded together, which had clearly been inserted at the same time as a bundle.

Many instances of proxy voting in ethnic-Albanian areas represented the male head of household voting for the women members of the family. In some instances the women were present. Again, this was claimed to be "normal local practice". Nonetheless, such practice is unacceptable as it disenfranchises the women concerned as well as opening the system to widespread abuse.

Round 2

The most significant problems observed were again voters not presenting a voter card and identification documents, and instances of proxy and family voting. The vast majority of negative observer reports were due to high instances of proxy and family voting. These negative reports were predominantly from ethnic-Albanian areas, such as Lipkovo (21), Ce-grane (52), Kamenjane (55), Aracinovo (64) and Studenicani (66). The final results from these areas were also of grave concern.

Ad hoc Committee to observe the presidential elections

(31 October and 14 November 1999)

Parliamentary Assembly, Doc. 8604, 22 December 1999

Family voting was much less widespread than in 1998. In general terms, no tension was noted at the polling stations. participate in the process. Some observers reported that proxy voting was carried out often by the male head of household without the female members being present.

Round 2

Observers were again very concerned about the high number of instances of group voting, particularly as this practice opens the door for a number of associated illegal procedures, including effective proxy voting and the virtual disenfranchisement of many women voters.

Proxy voting was also reported in District 66 in particular, where some persons were observed voting with multiple voter cards, and not 'just' female family members. It was also observed that persons were collecting the voter cards of persons who had not used them thus far in the day and bringing the cards to the polling station and voting with them.

Observation of parliamentary elections (15-19 October 1998)

Parliamentary Assembly, Doc. 8257, 3 November 1998

The observers did, however, note one or two irregularities, particularly with regard to the very widespread practice of family voting, especially in the west of the country, where the Albanian minority is dominant: in several polling stations in Tetovo and Gostivar areas, as many as 80% to 90% of women did not vote in person, their votes being cast for them by a husband, father or brother.

The Delegation of the Congress of Local and Regional Authorities of the Council of Europe, which observed our local elections in 2000, pointing to the irregularities observed, drew the attention of the Council of Europe to the question of family voting and raised the issue of including the problem on its agenda. The recommendation and positions of the Council of Europe regarding family voting have been included in Annex 1.



CHAPTER TWO

What is family voting?

WHAT IS FAMILY VOTING?

Family voting exists when:

- one person votes on behalf of multiple family members (proxy voting)
- two or more family members enter the point booth and vote together (group voting)
- multiple family members vote together (open voting).

Manners of family voting

Women's suffrage is mostly misused in family voting, whereupon:

- the husband votes instead of his wife (or controls her vote, disrupts the secrecy of his voting)
- the child (son) votes instead of the parents (or controls their vote, disrupts the secrecy of their voting)
- the father votes instead of the children (or controls their vote, disrupts the secrecy of their voting)
- a close (male) relative votes instead of the women of the family (or controls their vote, disrupts the secrecy of their voting)

Reasons for family voting

Family voting is caused by the undermining attitude towards women and the doubt in her ability to judge and decide on her own.

Misuse of women's suffrage usually occurs due to psychological barriers, discriminatory cultural traditions with patriarchal values and stereotypes of the woman's role in the family and social life. The reasons and "alibis" for family voting are illiteracy, ignorance of the electoral rules, ignorance of personal rights, and inexistence of awareness regarding voting secrecy. Misuse of women's electoral vote includes situations when they are subjected to threats or intimidation in order to vote in a certain manner. Unfortunately, sometimes misuse of the electoral right is a result of electoral manipulations made by some political parties for obtaining more votes in certain electoral units.

Family voting must be treated in the sense of women's social status. This type of suffrage misuse mostly occurs in rural areas where women live in

traditional communities. However, images of husbands who vote together in the voting booths can also be seen in the cities (although very rarely). The problem of family voting cannot be easily eradicated due to its acceptance by the members of such voting (both men and women) as “normal” and “natural”.

Family voting is just one component of the general discrimination of women which encompasses multiple areas of women’s lives: education, economy, politics etc.

I HAVE A RIGHT TO VOTE



CHAPTER THREE
FAMILY VOTING IS NOT ALLOWED
IN DEMOCRATIC SYSTEMS

Family voting violates:

- voting secrecy
- suffrage equality
- freedom of choice when voting.

Family voting means violating the general, equal and secret suffrage. Every person who has the right of suffrage must be allowed to exercise his/her suffrage right in a non-discriminatory manner on the basis of equal treatment before the law.

According to both domestic and international legal norms, family and proxy voting are forbidden. They signify a violation of the suffrage, represent a base for doubt in electoral results and may lead to annulment of elections.

INTERNATIONAL LEGAL NORMS

The Universal Declaration of Human Rights:

Article 21

(1) Everyone has the right to take part in government of his country, directly or through freely chosen representatives;

...

(3) The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure.

DOCUMENT OF THE COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION OF THE CONFERENCE ON SECURITY AND CO-OPERATION ON EUROPE (COPENHAGEN DOCUMENT), 7.3.

ADOPTED AND PROCLAIMED BY GENERAL ASSEMBLY RESOLUTION 217 A (III) OF 10 DECEMBER 1948.

International Covenant on Civil and Political Rights

Article 25

Every citizen shall have the right and opportunity

1. To take part in conduct of public affairs, directly or through freely chosen representatives
2. To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

Convention on the Elimination of All Forms of Discrimination against Women*

Art 7

State Parties shall take appropriate measures to eliminate discrimination against women in political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies

ADOPTED AND OPENED FOR SIGNATURE, RATIFICATION AND ACCESSION BY GENERAL ASSEMBLY RESOLUTION 2200A (XXI) OF 16 DECEMBER 1966; ENTRY INTO FORCE 23 MARCH 1976.

ADOPTED BY THE UNITED NATIONS GENERAL ASSEMBLY ON 18 DECEMBER 1979 (RESOLUTION 34/180) AND ENTERED INTO FORCE ON 3 SEPTEMBER 1981.

CONVENTION ON POLITICAL RIGHTS OF WOMEN**ARTICLE I**

WOMEN SHALL BE ENTITLED TO VOTE IN ALL ELECTIONS ON EQUAL TERMS WITH MEN, WITHOUT ANY DISCRIMINATION.

EUROPEAN CONVENTION OF HUMAN RIGHTS**PROTOCOL No. 1, ARTICLE 3**

THE HIGH CONTRACTING PARTIES UNDERTAKE TO HOLD FREE ELECTIONS AT REASON-ABLE INTERVALS BY SECRET BALLOT, UNDER CONDITIONS WHICH WILL ENSURE THE FREE EXPRESSION OF THE OPINION OF THE PEOPLE IN THE CHOICE OF THE LEGISLATURE.

DOMESTIC LEGAL NORMS**CONSTITUTION OF THE REPUBLIC OF MACEDONIA****ARTICLE 22 PARA. 1 AND 2**

EVERY CITIZEN THAT IS 18 YEARS OF AGE ACQUIRES SUFFRAGE.

THE RIGHT TO VOTE IS EQUAL, UNIVERSAL AND DIRECT, AND IS EXERCISED AT FREE ELECTIONS BY SECRET BALLOT.

ELECTORAL CODE

OPENED FOR SIGNATURE AND RATIFICATION BY GENERAL ASSEMBLY RESOLUTION 640(VII) OF 20 DECEMBER 1952, ENTRY INTO FORCE 7 JULY 1954, IN ACCORDANCE WITH ARTICLE VI

ADOPTED BY THE COUNCIL OF EUROPE IN 1950, ENACTED IN 1953. THE FIRST PROTOCOL IS PASSED ON 20.03.1952.

“OFFICIAL GAZETTE OF THE REPUBLIC OF MACEDONIA”, NO. 52/1991, 1/1992, 31/1998, 91/2001, 84/2003, 107/2005, 3/2009 AND 13/2009.

“OFFICIAL GAZETTE OF THE REPUBLIC OF MACEDONIA”, NO. 40/2006, 136/2008 AND 163/2008.

ARTICLE 3

(1) THE PRESIDENT OF THE REPUBLIC, THE MEMBERS OF PARLIAMENT, COUNCIL MEMBERS AND THE MAYOR OF THE MUNICIPALITY ARE ELECTED IN GENERAL, DIRECT AND FREE ELECTIONS THROUGH SECRET VOTING.

HOWEVER, THE LEGAL NORMS GUARANTEEING EQUAL SUFFRAGE HAVE NO VALUE IF THEY ARE NOT ENFORCED. THE EXISTENCE OF A LEGAL STATE IS NOT MEASURED SOLELY BY THE PASSED LEGAL NORMS OR BY THE ADOPTION OF THE INTERNATIONAL LAW IN THE DOMESTIC LEGISLATION, BUT BY THE DEGREE TO WHICH THE LEGAL NORMS ARE IMPLEMENTED.

THEREFORE, IN ORDER TO ERADICATE FAMILY VOTING WHICH IS FORBIDDEN BY LEGAL NORMS, THE STATE ELECTION COMMISSION, THE ELECTORAL COMMISSIONS, THE ELECTORAL BOARDS, THE JUDICIAL AUTHORITIES, BUT ALSO A WIDER CIRCLE OF ENTITIES IN THE POLITICAL SYSTEM, SUCH AS ELECTION OBSERVERS, POLITICAL PARTIES, AND NGOs HAVE AN ESPECIALLY IMPORTANT ROLE.



CHAPTER FOUR

THE ROLE OF THE STATE ELECTION COMMISSION IN THE PREVENTION OF FAMILY VOTING

1. STATE ELECTION COMMISSION TAKES CARE OF THE LEGALITY IN THE PREPARATION AND IMPLEMENTATION OF ELECTIONS

Pursuant to the Electoral Code (Article 31) State Election Commission (SEC) has obligations that are of significance in the prevention of family and proxy voting. The State Election Commission takes care of the legality in the preparation and implementation of the elections and conducts supervision of the work of the electoral bodies.

SEC conducts control on polling stations on the day of the elections where irregularities have been reported during the voting.

SEC controls the legality in the work of the electoral bodies and takes on measures when a violation of the legality has been identified in the preparations, implementation and confirmation of the election results, as well as in the implementation of the guidelines and recommendations it gives.

Family and proxy voting represent a violation of the legality of the electoral process and SEC must take measures when such cases occur.

Which measures are at SEC's disposal in cases where family voting has been detected?

Pursuant to Article 31 of the Electoral Code:

- SEC relieves of duty any member of an electoral authority in the event of illegal operations, which actually represents family and proxy voting.
- SEC initiates a disciplinary procedure, a violation procedure or brings criminal charges with the competent body in cases of suspicion of violation of the provisions of the Electoral Code.

According to the Law on Civil Servants, disciplinary offences in the case of which the civil servant acting as a member of electoral authority should be relieved of duty, are the violation of the suffrage, the violation of the freedom of voters' choice and the violation of voting secrecy (which are components of family voting).

Initiative for instituting disciplinary responsibility against civil servants for a disciplinary offence committed as a member of an electoral authority is submitted by the State Election Commission.

WHEN SEC DETECTS FAMILY VOTING, IT SHOULD:

- RELIEVE THE RESPONSIBLE MEMBERS OF THE ELECTORAL AUTHORITIES OF THEIR DUTIES
- CALL FOR DISCIPLINARY LIABILITY OF THE AUTHORIZED CIVIL SERVANTS WHO ARE MEMBERS OF THE ELECTORAL COMMITTEE;
- INITIATE VIOLATION PROCEDURES AGAINST MEMBERS OF THE ELECTION COMMITTEE (PURSUANT TO ARTICLE 179 OF THE ELECTORAL CODE);
- INITIATE VIOLATION PROCEDURES AGAINST ANY PERSON WHO PRACTICES PROXY VOTING OR GROUP VOTING (PURSUANT TO ARTICLE 191 PARAGRAPH 1 OF THE ELECTORAL CODE); AND
- BRING CRIMINAL CHARGE WITH THE COMPETENT PUBLIC PROSECUTOR AGAINST OF THE MEMBERS OF THE ELECTORAL COMMITTEE, I.E. THE PERSONS VIOLATING THE FREEDOM OF CHOICE OF THE VOTERS, ABUSE THE RIGHT TO VOTE AND THE SECRECY OF VOTING (PURSUANT TO ARTICLE 160, 161 AND 163 FROM THE CRIMINAL CODE

2. FAMILY AND PROXY VOTING ARE BASIS FOR ANNULMENT OF THE VOTING AT THE VOTING STATION

Four out of the six bases for annulment of elections envisaged by Article 151 of the Electoral Code encompass family or proxy voting.

The State Election Commission - ex officio or upon submitted objections-issues a decision annulling the casting of votes at that polling station if:

- the electoral committees does not implement the voting in the manner determined by the Electoral Code;
- the voting secrecy has been disrupted;
- the number of ballots in the ballots box is larger than the number of voters who cast their votes;
- a person or persons have voted for other persons.

When deciding on objections – in cases where the facts referred to have been recorded in the minutes – SEC shall inspect the entire electoral mate-

rial.

3. THE BALLOT MUST BE EASY TO UNDERSTAND FOR ILLITERATE PERSON AS WELL

Usually, family voting is justified as aiding illiterate persons in their vote. The recommendations of the international organizations and expert groups indicated that while establishing the ballot it must be ensured that it contains visual signs, candidates' symbols or symbols of the political parties, in order to facilitate the voting of illiterate persons.

In that sense, one of the recommendations contained in the Report of the Expert Group Meeting on the topic "Enhancing Women's Participation in the Electoral Process in Post-Conflict Countries" states:

– Ensure ballots bear photographs and party symbols, to reduce the need for assisted voting of illiterate and to better enable voters to identify their preferred candidate or party.

Since the SEC determines the quality, shape, size, color and serial numbers of the ballots, pursuant to the Electoral Code, it should also ensure that the ballot is as much comprehensible for all voters as possible.

4. VOTING FOR PERSONS WHO CANNOT VOTE HAS TO BE ENTERED INTO THE MINUTES

In the event that a voter cannot vote on their own due to a disability or due to illiteracy, pursuant to Article 112 of the Electoral Code, he/she has the right to receive help while voting.

This possibility is often misused for family voting. In order to reduce the possibility to the smallest level, and still not disrupt the exercise of suffrage of persons who cannot vote for themselves, the Electoral Code in Article 112 p. 6 envisages that this type of voting is entered into the minutes by the electoral committee.

Thus, pursuant to Article 112 p. 6 of the Electoral Code, the Entry Form

"ENHANCING WOMEN'S PARTICIPATION IN ELECTORAL PROCESSES IN POST-CONFLICT COUNTRIES", REPORT OF THE EXPERT GROUP MEETING, GLEN COVE, NEW YORK, 19-22 JANUARY 2004, OFFICE OF THE SPECIAL ADVISOR ON GENDER ISSUES AND ADVANCEMENT OF WOMEN, PP. 22-23.

no. 16, which is prescribed by SEC, should contain a specified place for notation of the voting on behalf of voters who cannot vote on their own (Article 112 p. 1).

The data for persons who cannot vote on their own must be entered into the minutes, as well as the data for the person aiding him in the vote.

5. EDUCATION OF THE ELECTORAL AUTHORITIES AND OF THE PUBLIC

Pursuant to the Electoral Code, the State Election Commission is responsible for the education of the electoral bodies, as well as of the public. Namely, the SEC:

- adopts a program and establishes standards for mandatory education of all electoral bodies and coordinates it;
- conducts mandatory education of the members of the municipal electoral commissions and issues certificates in the manner and within the deadlines prescribed by the program
- informs and educates the public of the manner of voting and exercising the suffrage.

Voters who know their rights in the electoral process, who know how to vote so that their vote is valid, who know where to vote, who know what is permissible, and what is not in the electoral process, who know how to protect their suffrage, that is, where to complain regarding the violation of their rights, are a precondition for conducting democratic elections. Voter education should encourage people to vote and should help create a culture in which women are welcomed and encouraged to participate into the electoral process.

Therefore, voters' education which informs the voters of the most significant aspects of the electoral process is a necessary prevention of the family and proxy voting. Since the problem of family voting has been present for quite some time now in our country, the educational programs should place an emphasis on the equality among men and women when it comes to voting.

It should be clearly emphasized that the suffrage is general, equal and secret. Educational campaigns specifying women's right of free choice in voting should be organized.

It is especially important for voters to know that each ballot must be

marked secretly and privately. It must be accented that situations when husband and wife enter a voting booth together, or when one member of the family casts ballots for more members of the family are not allowed with the domestic and international norms.

The SEC has to ensure that election officials and voters understand that family voting is illegal and is treated as electoral fraud. Training for preventing family voting should be included in the education of the electoral bodies as well as education for proper implementation of the electoral procedures for facilitating women's participation in the electoral process. The SEC has to ensure that secrecy of the vote is reinforced by having appropriately laid out polling stations. Polling officials should know that they, not the voters, are responsible for ensuring that the secrecy of the vote is maintained and that the irregularities which arise are promptly and effectively dealt with.



CHAPTER FIVE

The role of Muncipal Electron Commissions and Electoral Com- mittees in the prevention of family voting

1. THE MUNICIPAL ELECTION COMMISSIONS TAKES CARE OF THE LEGALITY IN THE IMPLEMENTATION OF ELECTIONS

Pursuant to Article 37 of the Electoral Code, the municipal election commission takes care of the legality in the preparation and implementation of the elections and conducts supervision of the work of the electoral committees.

The Municipal Election Commission:

- controls the legality in the work of the electoral committees and intervenes in the cases where a violation of the legality is detected in the implementation of the elections, as well as of the guidelines and recommendations it gives.
- revokes the status of the members of the electoral board in case of illicit activities during the Election Day (under which category the family voting can be included).
- prepares a report and delivers it to the State Election Commission.

As proxy and family voting is contrary to the provisions of the Electoral Code, the municipal election commission should intervene in the event of such an occurrence.

The manner and procedure of determining the responsibility for the illegal operations of the president, his/her deputy, the members and the deputy members of the municipal election commissions are determined by the Law on Civil Servants.

2. THE ELECTION COMMITTEE TAKES CARE OF THE LEGAL IMPLEMENTATION OF THE ELECTIONS

The election committee takes care of the legal implementation of the elections:

- directly implements the voting at the polling station
- ensures regularity and secrecy of voting;
- ensures a free and peaceful voting
- takes care of the peace and order at the polling station.

The direct responsibility of the election committee in the event of family voting arises out of these competencies. Family and proxy voting is an illegal activity and the members of the election committee have an obliga-

tion to stop any attempts of it.

If it comes to disturbance of the peace, the election committee can remove any person who disrupts the peace at the polling station and may seek the help of the police in establishing order at the polling station.

The election committee may stop the voting if the peace at the polling station is disturbed until it is reestablished.

The election committee prepares a report and maintains a journal of its work and delivers them to the municipal election committee and puts together minutes of operations and of summarizing the results on a unique form pre-scribed and authenticated by the seal of the State Election Commission; together with the election materials, it delivers those to the municipal election commission. The reasons for stopping the voting and the time in which the voting was stopped are entered in the minutes.

3. MANNER OF VOTING

The election committee must organize the voting in a manner in which a free and secret voting can be provided. The tables where the voting booths are located should be positioned in such a manner that it will not jeopardize the voting secrecy.

The election committee must implement the voting in the manner determined by the Electoral Code. The respect and due implementation of the procedures for work of the election committee and for the voting of the electors are guarantee for excluding the family voting.

The voting is done in person and on one single ballot.

The voters cast their votes one at a time.

No one has the right to vote twice. That is why the first thing to be checked is whether or not the voter has already cast his/her vote as soon as they come to the polling station. That is actually phase one in the voting procedure.

a) Checking whether or not the voter has previously voted, checking his/her identity and whether or not he/she is at the right polling station

The check whether or not the voter has previously voted is done in a manner by which the member of the election committee turns on the UV lamp and scans the whole right thumb to check if there are signs of ink on the nail and finger. If the voter has no thumb on his right hand, then the thumb

on his left hand is checked.

Afterwards the voter's identity is checked. The identity is proven solely by an ID or a travel document issued by domestic authorities.

The election committee, after establishing the voter's identity circles his ordinal number in the excerpt of the Electoral List and the voter puts his/her signature, and if he/she is illiterate he/she leaves a fingerprint from his/her right index finger. If the voter has no right index finger, he/she will leave a fin-gerprint from his/her left index finger, and if he/she has no left index finger, no fingerprint is left.

The election committee keeps the voter's ID (ID card or travel document) and explains to the voter that it shall be returned upon casting his/her vote.

If there are any doubts of the voter's identity expressed by a member of the election committee or by an authorized representative of a party submitting a list, they should be entered into the Event Journal. In the process, the name and capacity of the person who objects, the reason for the objection, the name and personal data of the voter and reasons why the voter has or has not been given a ballot are noted in the Event Journal.

b) Giving a ballot to the voter and explaining how to circle the ballot in order to be valid

The voter is given one single ballot. If the election committee gives more than one ballot, or if someone who is not on the electoral list is allowed to vote, the members of the election committee break the provisions of the Elec-toral Code and, thus, face the consequences.

The ballot is ripped from the stack of ballots by numerical order; a seal is put on the front side and is given to the voter.

It is then explained to voter that in order for the ballot to be valid he/she should circle the ordinal number in front of the name of the party submitting the list and that only one number must be circled. The voter should also be informed that if he/she makes a mistake when casting his/her vote, he/she will not get another ballot. The voter is informed that he/she should fold the ballot so that the secrecy of his/her vote is preserved.

c) Marking the right thumb of the voter

Once the voter has been given a ballot, the thumb of his/her right hand

is marked with spray, that is, the thumb of his left hand, if he/she has no thumb on his/her right hand. In the process, precaution is taken for the spray to cover both the nail and the part of the skin of the thumb. If the voter has no thumbs on either hand, no marking shall be done.

d) Voting in voting booths

Having been given a ballot and having had his/her thumb sprayed, the voter heads towards the voting booths to cast his/her vote. In the process, the election committee must ensure that there is only one single voter in a single voting booth. The presence of several persons in a voting booth is forbidden and is considered a violation of the suffrage, for which we have been criticized in the reports of foreign and domestic election observers. An exception to this is only allowed in the event that a voter who requires help is voting, which we will discuss further down. During the casting of the vote, the election committee must ensure that the voting be secret.

So that there may be no cases of family or proxy voting, the election committee must ensure that:

- each voter casts his/her vote personally
- each voter receives only one single ballot
- nobody can vote for someone else
- voting must be secret in the voting booths
- nobody may vote outside the voting booths
- each voter shall vote alone in the voting booth
- more than one person shall not go in the voting booth;
- each voter can personally, without any pressure, cast his/her vote

Thus, the election committee must take into account that it is forbidden:

- for one person to vote on behalf of several persons, regardless whether or not they are members of his/her family (proxy voting)
- for two or more voters, regardless of the fact that they are members of the same family, to enter the voting booth and vote together (group voting)
- for more than one person, regardless to the fact that they are cousins, to vote together outside the voting booths (open voting).

There must be no materials for propaganda in the voting booth and a member of the election committee should check, from time to time, if some of the voters left something behind (a pen, a leaflet, an entry and such) which may influence the will of the voters. If some materials for propaganda are found they must be removed.

e) Placing a ballot in the ballot box

Having cast his/her vote in the voting booth, the voter places the his/her ballot in the ballot box, which should be at a place visible for both the members of the election committee and the observers.

One of the members of the election committee should be close by to ensure that the voters are placing their folded ballots in the ballot box, to ensure the secrecy of their vote.

After the casting of the vote, the voter is given back his/her ID (ID card or travel document)

Manner of voting:

1. determining whether the voter has voted (using an UV lamp)
2. determining the identity (by an ID or a travel document)
3. circling the ordinal number of the voter in front of his/her name and surname in the excerpt of the electoral list
4. the voter signs or leaves a fingerprint in the excerpt of the electoral list
5. the voter is given one ballot onto the front side of which a seal is affixed
6. the voter is informed of the manner in which to cast his/her vote
7. marking the right thumb of the voter by spraying it
8. the voter casts the vote on his/her own, behind a voting booth
9. placing a ballot in the ballot box
10. returning the voter's ID

4. VOTING OF A VOTER WHO CANNOT VOTE ON HIS/HER OWN

The voter who has a disability or is illiterate, and due to that fact cannot vote in a previously described manner determined by the Electoral Code, has a right to bring with himself a person who will help him vote.

If the voter, who cannot vote for on his/her own due to a disability or illiteracy, does not bring with himself a person who will help him in casting his/her vote, then the election committee shall determine another person from amongst the voters.

The person who will help the other person cast their vote must not be from amongst the members of the electoral committee, the members of the party submitting the list or the observers.

One person can help no more than two voters who cannot vote by themselves.

The election committee should point out to the person helping another to cast their vote, due to disability or illiteracy, that he/she should not influence the decision of the voter.

The vote of a voter who cannot vote on his/her own and votes with the help of another person is registered by the members of the election committee in the minutes.

1. Who may seek the help of another person during the voting?

Help from another person during the voting can only be asked for by a voter who cannot cast a vote on his/her own due to:

- disability
- illiteracy

2. Who may help another person who cannot vote on their own?

- a person brought by the person who cannot vote on their own
- a voter determined by the electoral committee, if the voter who cannot vote on his/her own does not bring another person with him/her.

3. Who may not help another person who cannot vote on their own?

- a member of the electoral committee
- a representative of a party submitting the lists
- an observer

4. One person can help no more than two voters who cannot vote by themselves**5. The person helping another to cast their vote must not influence the decision of the voter.**

- The election committee is obligated to indicate to the person helping another to cast their vote that they must not influence the decision of the voter.

6. The election committee has an obligation to enter the proxy voting in the minutes and in the Journal!!!**5. THE MINUTES AS A BASE FOR PROTECTING THE SUFFRAGE AND RESPONSIBILITY FOR FAMILY AND PROXY VOTING**

During the voting, the representatives of the election committee can submit remarks of the work of the election committee and indicate irregularities, so that they may be removed.

Remarks are entered into the journal by:

- the present representatives of parties submitting the lists
- the members of the electoral committee

If cases of family and proxy voting are noticed, the representatives of the parties submitting the lists, as well as the members of the election committee have the right to note that in the minutes of the voting.

The president of the election committee must provide the present representatives of petitioners of the list, if there are any remarks, with the opportunity to note those in the minutes and to have those remarks as the bases in the procedure for protection of the suffrage. If the remarks of the representatives of the parties submitting the lists are not noted in the minutes, they have a right to deliver them to the municipal election commission within 5 hours after signing the minutes.

6. RESPONSIBILITY OF THE MEMBERS OF THE ELECTORAL AUTHORITIES IN THE EVENT OF FAMILY AND PROXY VOTING

Family and proxy voting are contrary to the provisions of the Electoral Code and constitute bases for annulment of the voting.

However, family and proxy voting bring upon disciplinary and legal responsibilities for the members of the electoral authorities, and a misdemeanor and penal responsibility for the voters themselves.

In this chapter we will talk about the responsibility of the members of the electoral authorities and will discuss the responsibility of the voter in the event of family voting in Chapter Eight.

a) Disciplinary responsibility

The Law on Civil Servants defines the manner and procedure of identifying liability for illegal actions on part of the president, his/her deputy, the members and deputy members of the municipal election commissions.

The manner and procedure of determining liability for illegal actions of the president, his/her deputy, the members and deputy members of the electoral committees are determined in the Labor Relations Law.

According to the Law on Civil Servants, stopping of the elections and the voting, violation of the suffrage, violation of the freedom of voters' choice, bribery during the elections, violation of voting secrecy, destroying electoral documents and election fraud which were committed by the civil

servant acting as a member of an electoral body are disciplinary offences for which he/she should be relieved of duty.

An initiative for instituting disciplinary liability against civil servants for a disciplinary offence committed as a member of an electoral body is submitted by the State Election Commission.

b) Responsibility for offence

According to the Election Code, a fine of 500 to 1500 in a denar equivalent shall be issued in cases of offence committed by members of electoral committees contrary to provisions of the Code.

c) Criminal responsibility

If a member of the electoral commission or another official violates the voting secrecy while performing service related to the elections, he/she shall be punished by imprisonment of at least five years.

Sanctions for the members of the electoral authorities which enable family and proxy voting:

- relief of duty
- fine of 500 to 1500 in a denar equivalent
- imprisonment of at least five years.



CHAPTER SIX

THE ROLE OF POLITICAL PARTIES IN THE PREVENTION OF PROXY AND FAMILY VOTING

The provision of a fair election process in which each individual will be able to exercise their right to vote in a direct, free and secret manner is a joint responsibility of the government, electoral committees and political parties. For the elections to be true “festival” of democracy, they should take place in a peaceful and tolerant atmosphere. It is the responsibility of each political party that participates in the elections to contribute with its engagement to strengthening of democracy and maintaining the peace in the country, thus allowing for the elections to be an objective test of the trust that the political parties and candidates enjoy among the citizens.

This is why elections are understood in to democratic country as a possibility to promote democratic political culture based on tolerance. And the existence of tolerance during elections depends largely on the behavior of the political parties, which play a significant role in the creation of an open, fair election process. For that reason, the political parties should contribute not only to avoiding any possible situation in which the right to vote is abused via family or proxy voting, but also to strengthening the awareness of the electorate about the penalties foreseen for such abuse, as well as to work on increasing the level of citizens’ support for a fair and democratic election process.

In any democratic country, therefore, it is the obligation of the political parties to undertake measures aimed at the prevention of family and proxy voting, such as:

- avoiding any involvement on their part or causing violence during the elections;
- respecting the human rights, including the citizens’ right to vote;
- not imposing any pressure on the voters or disabling free casting of votes;
- not violating voting secrecy;
- preventing proxy and family voting;
- pointing to and objecting against cases in which voters are prevented from free, secret and direct voting.
- For the purpose of implementing these tasks in preventing family and proxy voting, political parties and candidates have a role before and on the very day on which voting takes place. Prior to the election day, political parties have the role of creating a positive climate of mutual tolerance, positive awareness among their members, supporters and the general public about the importance of the personal participation of women in the election process and the exercise of the right to vote in accordance

with the democratic election standards; simultaneously with declaring their own will, the political parties should also stimulate willingness for respecting election rules among others. On the day of the elections, the political parties and candidates should respect the election rules and – by nominating their own representatives at the polling stations – point to the irregularities in the implementation of the voting, including family and proxy voting.

- On the election day, the authorized representatives of the parties submitting the lists are to pay attention to the following:

1. Is the ballot box empty before the polling station is open?
2. Are voters required to present a document for identification before they are allowed to vote?
3. Is anyone prevented from voting for no reason?
4. Are any persons ineligible to vote allowed to do so?
5. Is the secrecy of the ballot ensured (are votes cast in the booths, is secrecy of voting prevented in any other way, etc.)?
6. Do several individuals cast their votes at the same time in the voting booth?
7. Is anyone given more ballots than they are entitled to?
8. Are voters who require assistance helped in an appropriate manner?
9. Is the voting taking place in line with the manner defined in the Election Code (the manner of voting that is to prevent abuse of the right to vote, i.e. family and proxy voting is explained in Chapter Five of this Manual)?

- To be able to notice cases of family or proxy voting more easily, the authorized representatives of the parties submitting the lists must have forms prepared in advance, in which – for the purpose of ensuring more efficient protection of the right to vote of the parties submitting the lists - they are to also note the identity of those violating the election rules and the time of such violations, as well as to provide evidence for such cases of violation.

MODEL-QUESTIONNAIRE FOR OBSERVERS FOR DETECTING THE EXISTENCE OF FAMILY AND PROXY VOTING

FORM NO. 1

POLLING STATION No.			
THE ELECTION COMMITTEE ALLOWED VOTING WITHOUT REQUIRING VOTERS TO PRESENT IDENTIFICATION DOCUMENTS:			
TIME – HOUR AND MINUTES	VOTER (IF IT MAY BE IDENTIFIED)	EVIDENCE (WITNESSES)	NOTES
...			
AUTHORIZED REPRESENTATIVE _____			
DATE _____			

FORM NO. 2

POLLING STATION No.			
THE ELECTION COMMITTEE ALLOWED VOTING WITHOUT THE USE OF A UV LAMP TO CHECK WHETHER THE VOTERS HAD CAST THEIR VOTES BEFORE:			
TIME - HOUR AND MINUTES	Voter (if it may be identified)	EVIDENCE (WHITNES-SES)	NOTES
...			
AUTHORIZED REPRESENTATIVE _____ DATE _____			

FORM NO. 3

POLLING STATION No.			
THE ELECTION COMMITTEE ALLOWED VOTING WITHOUT SPRAYING THE RIGHT THUMB (OR THE LEFT ONE IN CASE OF VOTERS WHO HAVE NO RIGHT THUMB):			
TIME - HOUR AND MINUTES	Voter (if it may be identified)	EVIDENCE (WHITNES-SES)	NOTES
...			
AUTHORIZED REPRESENTATIVE _____ DATE _____			

FORM NO. 4

POLLING STATION No.			
A VOTER WAS GIVEN MORE THAN ONE BALLOTS:			
TIME - HOUR AND MINUTES	Voter (if it may be identified)	EVIDENCE (WHITNESSES)	NOTES
...			
AUTHORIZED REPRESENTATIVE _____			
DATE _____			

FORM NO. 5

POLLING STATION No.			
THE ELECTION COMMITTEE DID NOT ALLOW A VOTER TO CAST HIS/HER VOTE:			
TIME - HOUR AND MINUTES	Voter (if it may be identified)	EVIDENCE (WHITNESSES)	NOTES
...			
AUTHORIZED REPRESENTATIVE _____			
DATE _____			

FORM NO. 6

POLLING STATION No.			
THE ELECTION COMMITTEE ALLOWED MORE THAN ONE PERSON TO CAST THEIR VOTE IN THE BOOTH:			
TIME - HOUR AND MINUTES	Voter (if it may be identified)	EVIDENCE (WHITNES-SES)	NOTES
...			
AUTHORIZED REPRESENTATIVE _____ DATE _____			

FORM NO. 7

POLLING STATION No.			
THE ELECTION COMMITTEE ALLOWED VOTING OUTSIDE THE BOOTH			
TIME - HOUR AND MINUTES	Voter (if it may be identified)	EVIDENCE (WHITNES-SES)	NOTES
...			
AUTHORIZED REPRESENTATIVE _____ DATE _____			

FORM NO. 8

POLLING STATION No.			
THE ELECTION COMMITTEE ALLOWED ONE PERSON TO ASSIST MORE THAN TWO VOTERS REQUIRING ASSISTANCE TO CAST THEIR VOTE:			
TIME - HOUR AND MINUTES	Voter (if it may be identified)	EVIDENCE (WHITNES-SES)	NOTES
AUTHORIZED REPRESENTATIVE _____ DATE _____			

FORM NO. 9

POLLING STATION No.			
THE ELECTION COMMITTEE ALLOWED MEMBER OF THE COMMITTEE/PARTY SUBMITTING A LIST/ OBSERVER TO ASSIST TO ASSIST A VOTER REQUIRING ASSISTANCE TO CAST THE VOTE:			
TIME - HOUR AND MINUTES	Voter (if it may be identified)	EVIDENCE (WHITNES-SES)	NOTES
AUTHORIZED REPRESENTATIVE _____ DATE _____			

The representatives of the parties submitting the lists should bear in mind that they are not to appear in the role of a person who will assist voters unable to cast the vote on their own.

Right of the authorized representatives of the parties submitting the lists in cases of observed family or proxy voting

1. In case an omission is observed on the day of the voting **prior to the start of the voting (on opening the polling station)**, such as ballot boxes filled with ballots:

- authorized representatives have the right to object and they must be allowed to record it in the minutes;
- in case their objection is not entered into the minutes, they have the right to submit such objections with the municipal election committee within 5 hours following the signing of the minutes.

In the course of the voting itself:

- the representatives of the parties submitting the lists may follow the identification of the identity of the voters casting their votes from a close distance
- in case they observe cases of family or proxy voting (or have objections regarding the work of the election committee during the voting), they are to point to the irregularities, for the purpose of eliminating any such irregularities.
- in case the authorized representatives of the parties submitting the lists have objections, the head of the election committee must enable them to have those objections recorded in the minutes so that the latter may present grounds in a procedure for protection of the suffrage right.
- in case those objections are not entered into the minutes, the representatives of the parties submitting the lists have the right to submit those objections with the municipal election committee within 5 hours following the signing of the minutes.

The Election Code also foresees a procedure for **protection of the suffrage** of the parties submitting the lists. As family and proxy voting constitute abuse of the right to vote of the voters and may affect the final result of the voting, the parties submitting the lists of candidates may object on those grounds with the State Election Committee. Each party submitting a list of candidates, therefore, may lodge an **objection with the State Election Committee** in the course of the procedure for voting, counting the votes and identifying the results of the voting. Family and proxy voting are just some of the grounds on which objections may be filed.

Objections are filed in writing and contain the following elements:

- place, time, description of the violation in question, violators and evidence presented by the objecting party, and
- name, last name and signature of the objecting party or the authorized representative.

The elements to be included in the objections (place, time, description of the violation in question, violators and evidence presented by the objecting party) point to the importance of the existence of pre-prepared specified forms in which the representatives of the parties submitting the lists will be able to enter the data required, as well as to the need of previous training of those persons in recognizing any violations and gathering the required evidence.

Objections may also be submitted on special forms, prescribed by the State Election Committee and published in the “Official Gazette of the Republic of Macedonia” and on the Internet page of the State Election Committee.

Objections must be submitted within 48 hours following the end of the voting. The State Election Committee shall decide on any objections within 48 hours following the receipt of the objections.

Decisions of the State Election Committee may be appealed against with the Administrative Court within 48 hours following the receipt of the decision. In that, objecting parties shall base their appeals to the Administrative Court on the underlying grounds and on the findings stated in the objection decided against at the first instance.

The submission of objections on the grounds of family or proxy violence is significant as it constitutes **grounds for annulment of the voting** (Article 151 paragraph 1 lines 1, 2, 5, and 6 of the Election Code). In deciding on objections against family or proxy voting, the State Election Committee shall inspect the entire election material.

Decisions of the State Election Committee may be appealed against with the Administrative Court within 48 hours following the receipt of the decision. The Administrative Court shall decide on any appeals within 48 hours following the receipt of thereof.



CHAPTER SEVEN

THE ROLE OF OBSERVERS IN THE PREVENTION OF PROXY AND FAMILY VOTING

Observing elections may assist in the protection of the suffrage. It is of particular importance for the prevention of family and proxy voting, as well as for improving the quality of the elections.

Observers should be encouraged to be aware of and to recognize gender discrimination in general, and especially family and proxy voting.

Namely, observers should watch for any cases of family and proxy voting in which voters (particularly women) are deprived of their right to vote secretly and freely.

In order to be able to carry out their task, the observers are to have good knowledge of the voting process and to know that family and proxy voting are forbidden and constitute suffrage violation. However, observers should also know their rights in the course of the election process.

In case of objections as to the work of the election committee, the authorized domestic observers have the right to record any such objections in the log at the polling station.

In case they notice family or proxy voting, the authorized domestic observers are to record them in the log at the polling station.

In order to prevent proxy voting, authorized domestic observers may from a close distance follow the identification of the identity of voters coming to cast their votes.

To determine whether the right to vote is exercised in the manner foreseen in the Election Code (personally, secretly and freely), and particularly for the purpose of detecting family and proxy voting, observers should be alert as to the following issues:

1. Are voters required to present an identification document before they are allowed to vote?
2. Are those eligible to vote enabled to do so?
3. Are any persons ineligible to vote allowed to do so?
4. Is the secrecy of the ballot ensured (are votes cast in the booths, is secrecy of voting prevented in any other way, etc.)?

5. Is family voting allowed (several individuals casting their votes at the same time in the voting booth)?

6. Are voters given more ballots than they are entitled to?

7. Are voters who require assistance helped in an appropriate manner?

It is desirable that observers have pre-prepared questionnaires with questions that would be indicators of the existence of family or proxy voting.

MODEL QUESTIONNAIRE FOR DETECTION OF FAMILY OR PROXY VOTING BY OBSERVERS

1	HAVE THE VOTERS BEEN ASKED TO DISPLAY THEIR IDs PRIOR TO RECEIVING A BALLOT?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
2	WAS THE VOTER CHECKED WITH AN UV LAMB FOR HAVING VOTED ALREADY?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
3	DID YOU NOTICE ANY VOTER RECEIVING MORE THAN ONE BALLOTS?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
4	DID YOU NOTICE A CERTAIN VOTER COMING TO THE POLLING STATION AND VOTING SEVERAL TIMES?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
5	DID YOU NOTICE ANY VOTER WHO HAS A RIGHT TO VOTE BEING DENIED THAT RIGHT?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		

6	DID YOU NOTICE ANY VOTER WHO DOES NOT HAVE THE RIGHT TO VOTE OR WHO DOES NOT HAVE THE RIGHT TO VOTE IN THAT POLLING STATION BEING GRANTED THAT RIGHT?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
7	WAS IT ALLOWED FOR MORE THAN ONE PERSON TO VOTE IN ONE SINGLE VOTING BOOTH AT THE SAME TIME?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
8	WAS VOTING ALLOWED OUTSIDE THE VOTING BOOTH?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
9	DID THE PERSONS WHO REQUIRE HELP WHEN VOTING DUE TO A DISABILITY OR ILLITERACY RECEIVE THE APPROPRIATE HELP?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
10	DID ONE SINGLE PERSON HELP MORE THAN TWO PERSONS WHO NEEDED HELP WHEN VOTING?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
11	DID A MEMBER OF THE ELECTION COMMITTEE HELP THE PERSONS WHO REQUIRE HELP WHEN VOTING DUE TO A DISABILITY OR ILLITERACY?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
12	DID A REPRESENTATIVE OF A PARTY SUBMITTING A LIST HELP THE PERSONS WHO REQUIRE HELP WHEN VOTING DUE TO A DISABILITY OR ILLITERACY?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		

13	DID ANY OF THE OBSERVERS HELP THE PERSONS WHO REQUIRE HELP WHEN VOTING DUE TO A DISABILITY OR ILLIT-ERACY?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
14	DID YOU NOTICE ANY CASES WHERE THE VOTERS ARE BEING INFLUENCED IN THEIR DECISIONS HOW TO CAST THEIR VOTES AT THE POLLING STATION?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		
15	WERE THE VOTERS WHO CAST THEIR VOTE MARKED ON THEIR RIGHT THUMB (LEFT, THAT IS, IF THE HAD NO RIGHT ONE) BY SPRAY?	YES	NO
	IF NOT, HOW MANY TIMES DID THIS OCCUR? _____		



CHAPTER EIGHT

PUNITIVE PROVISIONS FOR PROXY AND FAMILY VOTING

The punitive provisions for family and proxy voting are prescribed in the Penal Code and in the Electoral Code.

The punitive provisions for crimes against elections and voting are contained in the Penal Code, whereupon some of them incriminate proxy voting and certain aspects of family voting. Those are the provisions which forbid and penalize:

- violation of the freedom of voters' choice;
- misuse of the suffrage and
- violation of voting secrecy.

Prison sentence of at least three years is prescribed for:

- proxy voting
- voting more than once
- voting by a person who knows they do not have suffrage
- violation of voting secrecy
- preventing somebody to vote
- forcing somebody to vote or not to vote
- forcing somebody to vote in a certain way

Punishable are also attempts:

- of proxy voting
- of voting more than once
- of voting despite the awareness of not being entitled to a right to vote.

The penalties for members of electoral bodies are higher. Any member of an electoral body shall be punished by imprisonment of at least five years, if they:

- stop or force someone, to exercise, not to exercise or how to exercise his voting right,
- violate the secrecy of the voting during elections or during the voting.

Attempts of violating the freedom of the voters' choice are also punishable.

The Electoral Code treats voting for several persons or proxy voting as a misdemeanor, for which a fine of Euros 500 to 1,500 in denar equivalent is prescribed.

OVERVIEW OF THE PUNITIVE PROVISIONS IN THE PENAL CODE AND ELECTORAL CODE RELATED TO FAMILY AND PROXY VOTING

PENAL CODE

Violation of the freedom of the voters' choice

Article 160

- (1) Any person who uses force, serious threat, fraud or in any other way stops or forces somebody to exercise, not to exercise or to influence the way in which to exercise their suffrage, shall be punished by imprisonment of at least three years.
- (2) If the act of paragraph 1 is committed by a member of the electoral authority or another official while performing service regarding the elections or voting, he/she shall be punished by imprisonment of at least five years.
- (3) Any attempts to do so are also punishable.

Misuse of the suffrage

Article 161

- (1) Any person who acts as a proxy voter or who shall vote more than once during elections of voting shall be punished by imprisonment of at least three years.
- (2) Any person who takes part in elections or voting, even though he/she is aware that he/she has no right to do so shall be punished by the penalty of paragraph (1).
- (3) Any attempts to do so are also punishable.

Violation of voting secrecy

Article 163

- (1) Any person who shall violate the secrecy during elections of voting shall be punished by imprisonment of at least three years.
- (2) If the act of paragraph 1 is committed by a member of the electoral authority or another official while performing service regarding the elections, he/she shall be punished by imprisonment of at least five years.

ELECTORAL CODE

Article 163

- (1) A fine of Euros 500 to 1,500 in denar equivalent shall be imposed in case of offence committed by a member of an election committee working contrary to the provisions of this Code (Article 19(1)).

Article 191

- (1) Any natural person who votes for more than one persons or is a proxy voter, or obstructs the presence of the police if there was a need for their presence (Articles 102, 103, 111 and 112 of this Code) shall be fined with 40 000 to 50 000 denars for misdemeanor..

ANNEX 1
RECOMMENDATIONS OF THE INTERNATIONAL ORGANIZATIONS AND INSTITUTIONS WHICH REFER TO STOPPING FAMILY AND PROXY VOTING

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RECOMMENDATIONS OF THE INTERNATIONAL ORGANIZATIONS AND INSTITUTIONS WHICH REFER TO STOPPING FAMILY AND PROXY VOTING

Recommendation 1676 (2004), Parliamentary Assembly,
Council of Europe
Women's participation in elections

1. Over the last century women have made great strides regarding their right to participate in elections. They fought hard for – and obtained – the right to vote and to be elected. These rights are no longer disputed. Women have also made other significant political advances but progress to full democratic participation has been uneven.
2. Today, women's effective participation in elections is threatened by two developments: as regards the right to vote, in a number of European countries, some women are being prevented from freely casting their own vote by such undemocratic practices as "family voting". As regards the right to be elected, in nearly all European countries, women continue to be under-represented in elected office.
3. "Family voting" occurs in three ways: in group voting, where a male family member accompanies one or more women relatives into a polling booth; in open voting, when family groups vote together in the open; and in proxy voting, where a male family member collects ballot papers belonging to one or more women relatives and marks those papers as he sees fit. "Family voting" is an undemocratic practice which disenfranchises women voters and should not be tolerated.
4. The under-representation of women in elected office hampers the full democratic development of most Council of Europe member states, as only one country (Sweden) has achieved the parity threshold set out in Recommendation Rec (2003)3 of the Council of Europe's Committee of Ministers on balanced participation of women and men in political and public decision making, that is, 40% representation in parliament at national level. The presence of women in parliaments and other elected assemblies is a key component of democracy. Increasing the proportion of women in elected office would be a route to social and democratic change

which would benefit men and women alike.

5. Council of Europe member states therefore have the duty to ensure that European standards within the democratic election process are met and that women are given a fair chance both to freely elect the candidate of their choice and to be elected themselves

6. The Parliamentary Assembly thus recommends that the Committee of Ministers draw up a charter for electoral equality (if appropriate, asking the opinion of the Venice Commission) in which Council of Europe member states would subscribe to concerted action to guarantee women's electoral rights and to improve the electoral participation of women. This charter should:

(i) includes all measures necessary to outlaw and eliminate "family voting", in particular by:

- a. organising awareness-raising campaigns during pre-election periods emphasising that "family voting" is a serious violation of electoral rights;
- b. enabling sub-literate voters to make an individual decision by designing ballot papers sensitive to voters' needs (including for example dual language ballot papers, using party symbols and/or photographs);
- c. training electoral commission officials in the conduct of democratic polling, with particular attention to the prevention of family voting;
- d. introducing sanctions against electoral commissions' officials in polling stations where family voting is detected and invalidating the results of voting in these polling stations;
- e. outlawing proxy voting;

(ii) set the objective to increase the minimum representation of women in parliament and other elected assemblies to the level of at least 40% by the year 2020, in particular by:

- a. removing any constitutional or legal barriers to positive measures aiming at gender parity;
- b. encouraging political parties to adopt positive measures to ensure increased representation of women candidates;
- c. adopting legislative reforms to introduce parity thresholds for candidates in elections at local, regional, national and supranational levels;
- d. inviting speakers of parliaments to ensure a discrimination - and harassment-free environment conducive to conciliation of private and political life;
- e. where electoral systems are shown to have a negative impact on the po-

- litical representation of women in elected bodies, by adjusting or reforming those systems to promote gender-balanced representation;
- f. instituting gender-neutral quotas for required numbers of female and male candidates on party lists. Double quota (e.g. “zipping”) systems are especially recommended because they ensure that women are sufficiently well placed to be elected. Quotas should be time-limited and proportionate to needs;
 - g. taking action through the public funding of political parties in order to encourage them to promote gender equality;
 - h. applying these measures to all elected posts, such as presidents and mayors where applicable, as well as to all bodies constituted as a result of elections, such as governments;
 - i. adopting appropriate legislative and/or administrative measures to ensure that there is gender-balanced representation in all national delegations to international organisations and fora;
 - j. developing specific training and publicity packages to encourage women candidates to contest elections;
 - k. ensuring equal access to the media by male and female candidates and encouraging media professionals to give equal visibility to female and male candidates and elected representatives in the media, especially during election periods.

7. The Assembly calls on all Council of Europe member states to undertake awareness-raising measures, including gender education, in order to bring about a lasting change of attitudes and traditions to ensure the full participation of women in elections at all levels and in all respects.

8. Finally, the Parliamentary Assembly recommends that national parliaments and international organisations which carry out election monitoring, including the Assembly itself, try to attain gender balance when appointing the members of election observation missions. In addition, the gender dimension of electoral participation should be appropriately monitored during such missions.

Congress of Local and Regional Authorities of the Council of Europe
Recommendation 111 (2002) on women’s individual voting rights:
a democratic requirement

The Congress,

1. Recalling the declaration adopted at the 4th European Ministerial Conference on equality between women and men (Istanbul 1997), and especially the commitment to “ensure that the realisation of equality between women and men is a part of the monitoring of member states’ fulfilment of their democratic obligations”;
2. Recalling the Council of Europe’s role in promoting and upholding the highest standards of democratic practice in the member states;
3. Noting that Council of Europe member states are constitutionally and legally committed to upholding democratic electoral practices, including the equal voting rights of women and men;
4. Drawing on the relevant international instruments, in particular the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979) and the Declaration and Platform for Action adopted at the Fourth World Conference on Women (Beijing, 1995);
5. Recalling that the guarantee of a secret ballot, as set out in the Additional Protocol to the European Convention on Human Rights, and in the Copenhagen Document adopted in 1990 by the Organisation for Security and Co-operation in Europe (OSCE) is an essential condition for ensuring the free expression of the opinion of the people in the choice of the legislature;
6. Having regard to the findings of the reports on election observation missions conducted by the Parliamentary Assembly, the Congress of Local and Regional Authorities of Europe and the OSCE in recent years, which have highlighted the practice of family voting in some fifteen European countries;
7. Recalling the report by Mr Georges Clerfayt and Parliamentary Assembly Resolution 1264 (2001) on the code of good practice in electoral matters;
8. Considering in this respect that women’s individual voting rights are one of the principles of European electoral systems;
9. Affirming that the exercise of women’s individual voting rights is a fundamental requirement for the functioning of democracy and should not be re-garded as a secondary issue;
10. Considering that family voting is a practice which tends to deprive women, and sometimes young people, of their individual voting rights and as such amounts to a form of electoral fraud;
11. Aware that family voting is a difficult and sensitive issue for the states concerned;
12. Bearing in mind that socio-economic, cultural or local factors are some-

times used to justify the denial of individual voting rights;

13. Believing that eliminating the practice of family voting requires a concerted effort by various players – national, regional, and local governments, non-governmental organisations (NGOs) and judicial authorities;

14. Taking the view that the activities conducted by the Stability Pact Gender Task Force and the OSCE-backed activities in this area are useful in raising women's awareness of the role they can play in preventing conflict and creating stability in the region;

15. Welcoming furthermore the steps taken by the Council of Europe to encourage women's participation in public life, which necessarily includes the right to participate on an individual basis in decision making, and first and foremost in elections,

16. Calls on the Council of Europe member states:

a. to strictly enforce electoral law as part of the democratic electoral process in member states and to ensure that the commitments entered into with regard to electoral rights are actually honoured;

b. to give particular attention, therefore, to the prevention of family voting when training electoral commissions;

c. to state publicly and make it widely known that women have the same right to vote as men and that, consequently, any denial of women's right to cast their ballot is prohibited;

d. to conduct public information campaigns in advance of elections, emphasising the importance of the individual right to vote and the fact that family voting is an unacceptable and illegal practice. Such campaigns could take the form of targeted women's rights education, but could also be part of more general public education programmes on democracy, using women in decision-making posts as role models for participation in the democratic decision-making process;

e. to encourage research into the causes and extent of family voting and, on the basis of the findings of this work, to draw up a national programme to eliminate such practices, with timetables, targets and monitoring mechanisms;

f. to implement and support good practice with regard to electoral procedures;

g. to invite the ministers responsible for electoral law and women's rights to take the appropriate measures to prevent family voting;

h. to make the necessary arrangements to enable the following requirements to be met:

(i) electoral legislation should contain a clause holding electoral commis-

- sion officials liable for any failure to observe democratic voting practices and in particular the exercise of women's individual voting rights;
- (ii) electoral commission officials should be aware of the risk of severe sanctions if fraud is discovered in a polling station for which they are responsible. Such sanctions should be enforced for family voting as well as for other infringements of electoral law;
- (iii) electoral commission officials should be fully trained in the conduct of a democratic poll, with emphasis on the importance of individual voting and the secrecy of the ballot, and on the need for zero tolerance of practices that diverge from these principles;
- (iv) electoral commission officials should have adequate facilities and staff, to enable them to perform their duties in accordance with the best democratic practices;
- (v) electoral commissions should rigorously enforce democratic procedures;
- (vi) ballot papers should be sensitive to voters' needs (for example, dual-language ballot papers, party symbols on ballot papers) to enable any voter who is illiterate or insufficiently informed to have access to sufficient information to make an individual decision;
- (vii) complaints procedures need to be accessible, easily understood and swift, and should incorporate an effective investigative procedure;
- (viii) when appointing electoral commissions, consideration should be given to having non-locals officiate in regions where family voting is more likely to occur (for example, rural areas);
- i. to require political parties to develop democracy-education programmes incorporating gender-equality modules in order to qualify for state funding;
- j. to provide general citizenship and equality education in schools, with the emphasis on women's equal rights with men in the political, civic, social and economic spheres. Where appropriate, these programmes should seek to address local traditions and cultural practices and perceptions that consign women and girls to a subordinate role in society;
- k. to recognise that literacy should be a basic right for all, with equal access for women and girls from all backgrounds to a full education;
- l. to support and facilitate NGO activities which aim to:
- (i) promote women's education and the exercise of their fundamental rights, including individual voting rights; and
- (ii) raise men's awareness on the importance of women's participation in public life and their exercise of individual voting rights;

m. to encourage, by all appropriate means, women's NGOs to network with democracy-building NGOs, with a view to pooling experience, knowledge and strategies for supporting women's individual voting rights;

n. to support the extension of political awareness-raising schemes such as the Women Can Do It campaign and the grassroots women's political empowerment programmes devised by the Stability Pact Gender Task Force in areas where family voting is an issue;

17. Calls on the Council of Europe's Committee of Ministers:

a. to develop a concerted programme of action to prevent family voting and to devise initiatives designed to help institutions and individuals to make use of democratic practices, in particular as part of the Council of Europe's integrated project Making Democratic Institutions Work;

b. to accordingly invite the Steering Committee for Equality between Women and Men (CDEG) to include this issue in the CDEG's work programme and in particular to:

(i) prepare and widely disseminate a compendium of good practices and strategies for achieving gender-balanced representation in political and social decision-making and to encourage practical preventive measures to eliminate family voting;

(ii) hold awareness-raising seminars on women's political rights and the exercise of their individual voting rights, in co-operation with local NGOs working for gender equality, democracy-building agencies and national, regional, and local authorities. These activities could notably be conducted within the framework of the Stability Pact, the assistance programmes for Council of Europe member states, and pre- or post-accession programmes for future or new member states;

(iii) hold regional multilateral seminars for the chairs of electoral commissions in order to promote the sharing of experience and good practice and thus encourage the introduction of training courses for trainers of national and local electoral commissions in the countries concerned;

c. to support the activities of NGOs specialising in democracy building and gender equality in order to improve awareness, at local level, of women's rights as active members of society, including their voting rights;

d. to support, in particular, local NGOs involved in election monitoring and to draw their attention to the issue of family voting;

e. to forward this recommendation to the 5th European Conference of Specialised Ministers to be held in Skopje on 21 and 22 June 2002 on democratisation, conflict prevention and peace-building: the perspectives and the roles of women;

18. Invites the Venice Commission to address the issue of women's individual voting rights when carrying out electoral assessments, and when draft-ing the code of good practice in electoral matters, in consultation with the Par-liamentary Assembly and the Congress of Local and Regional Authorities of Europe;

19. Calls on the Parliamentary Assembly:

a. to draw attention to the inappropriateness of family voting in the work of its competent committees, in particular the Political Affairs Commit-tee, the Committee on Legal Affairs and Human Rights and the Com-mittee on Equal Opportunities for Women and Men;

b. to hold a hearing on family voting and to commission research on best practice and effective strategies regarding awareness-raising pro-grammes on women's rights which could be promoted within national parliaments;

c. to give particular attention to family voting during election observa-tion missions and to emphasise that such practices are unacceptable in a democracy;

d. to bring the issue of family voting to the attention of parliamentary committees on women's rights in the Council of Europe member states concerned;

20. Calls on the Organisation for Security and Co-operation in Europe (OSCE) and the Office for Democratic Institutions and Human Rights (ODIHR) to give particular attention to the issue of family voting when implementing its "democratisation" activities, and during its election ob-servation missions in Europe.

Congress of Local and Regional Authorities of the Council of Europe

Resolution 134 (2002) on women's individual voting rights:

a democratic requirement

The Congress,

1. Recalling its work in promoting women's participation in local and re-gional authorities, in particular the report by Patrizia Dini, Resolution 85 (1999) and Recommendation 68 (1999) on women's participation in politi-cal life in the regions of Europe;

2. Having regard to the findings of the reports on election observation missions conducted by the Parliamentary Assembly, the Congress of Local and Regional Authorities of Europe and the Organisation for Security and

Co-operation in Europe (OSCE) in recent years, which have highlighted the practice of family voting in some fifteen European countries;

3. Recalling that twinning and partnerships between local and regional authorities of Europe can also help to bring women from different communities closer together, to enable them to share experiences of the electoral process and engage in an informal process of raising awareness of women's rights as political citizens;

4. Emphasising the role of local and regional authorities in supporting local initiatives to encourage women's participation in politics and public life

5. Calls on local and regional authorities:

a. to encourage twinning and partnerships between local and regional authorities in member states as, inter alia, a means of supporting best democratic electoral practices;

b. to support and facilitate activities of non-governmental organisations which aim to promote women's education and the exercise of their fundamental rights, including individual voting rights;

c. to raise awareness of women's equal political and civil rights and promote best voting practices through print and broadcast media, seminars or public campaigns. These programmes are designed to tackle sexist attitudes and language and are modelled on the media awareness campaigns developed by the Stability Pact Gender Task Force;

6. Calls on the Bureau of the Congress:

a. to encourage follow-up to this activity, in particular the holding of seminars during pre-election awareness-raising campaigns, which would provide an opportunity for discussion with representatives of electoral commissions, democracy-building organisations and women's non-governmental organisations;

b. to give particular attention to the practice of family voting during election observation missions and to emphasise the inappropriateness of such practices in a democracy;

c. to update its Election Observation Handbook and to give particular attention to the practice of family voting during election observation missions;

7. Calls on non-governmental organisations:

- a. to develop their activities as pressure groups working for equality in the political process, with special emphasis on women's equal right to vote;
- b. to promote information, especially among men's organisations, on the importance of women's participation in public life and elections;
- c. to initiate and/or develop activities and training programmes aimed at informing women about their civil and political rights – such as the programme for developing women's active citizenship of the Stability Pact Gender Task Force, which could serve as a model;
- d. to monitor elections in their localities in order to assess the extent of women's participation in voting and submit a report to the electoral commission regarding the pattern of women's participation and the extent to which women were free to cast their ballot in secret.

Guidelines on elections adopted by the Venice Commission at its 51st Plenary Session (Venice, 5-6 July 2002)

4. Secret suffrage

- a. For a voter, secrecy of voting is not only a right but also a duty, non-compliance with which must be punishable by disqualification of any ballot paper whose content is disclosed.
- b. Voting must be individual. Family voting and any other form of control by one voter over vote of another must be prohibited.
- ...
- c. The violation of secret suffrage should be sanctioned.

Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990)

- 5. They solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and in-alienable rights of all human rights are the following:
 - 5.1. – free elections that will be held at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure

in practice the free expression of the opinion of the electors in the choice of their representatives;

...

Participating States will

7.3 – guarantee universal and equal suffrage to adult citizens;

7.4 – ensure that votes are cast by secret ballot or by equivalent free voting procedure ...

General Comment No. 25:

The right to participate in public affairs, voting rights

and the right of equal access to public service (Article 25): 12/07/96.

CCPR/C/21/Rev.1/Add.7, General Comment No. 25. (General Comments)

12. Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected. Positive measures should be taken to overcome specific difficulties, such as illiteracy, language barriers, poverty, or impediments to freedom of movement which prevent persons entitled to vote from exercising their rights effectively. Information and materials about voting should be available in minority languages. Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have adequate information on which to base their choice. States parties should indicate in their reports the manner in which the difficulties highlighted in this paragraph are dealt with.

ANNEX 2

PROVISIONS OF THE ELECTORAL CODE
CONNECTED WITH THE PROHIBITION
OF FAMILY AND PROXY VOTING

Article 3

- (1) "The President of the Republic, the members of Parliament, council members and the mayor of the municipality are elected in general, direct and free elections through secret voting.
- (2) Nobody may make the voter accountable because of voting, nor may ask him/her who he/she voted for or why he/she had not voted."

Article 6

(1) "Every person who is citizen of the Republic of Macedonia with 18 years of age and has a business capability and has a permanent residence in the electoral unit, municipality, that is, the City of Skopje where the elections are held has the right to vote.

(2) Citizens of the Republic of Macedonia who on the voting day are temporarily working or residing abroad, but are recorded on the Election List on the basis of the records of the competent body and the voting application, shall vote at elections for President of the Republic of Macedonia and members of the Parliament of the Republic of Macedonia at the diplomatic and consular offices of the Republic of Macedonia abroad, in line with the provisions of this Code."

Article 31

„(1) "The State Election Commission takes care of the legality in the preparation and implementation of the elections in accordance with this code and conducts supervision of the work of the electoral authorities.

(2) The State Election Commission:

...

3) relieves of duty any member of an electoral authority in the event of illegal operations

4) controls the legality in the work of the electoral authorities and takes on measures when a violation of the legality is determined in the preparations, implementation and confirmation of the election results, as well as in the implementation of the guidelines and recommendations it gives;

....

6) adopts a program and establishes standards for mandatory education of all electoral authorities and coordinates it;

7) conducts mandatory education of the members of the municipal election commissions and issues certificates in a manner and within deadlines prescribed by the program;

...

12) determines the quality, shape, size, color and serial numbers of the ballots

...

15) informs and educates the public of the manner of voting and of exercising the suffrage;

...

17) conducts voting stations control on the day of the elections where there are reported irregularities during the voting;

...

35) decides upon objections based on insight into the electoral materials and other evidence;

...

(3) In case of grounds for suspicion of violation of the provisions of this Code, the State Election Commission initiates a disciplinary or a misdemeanor procedure or brings criminal charges with the competent body."

Article 35

"(3) The manner and procedure of determining the responsibility for illegal actions of the president, his/her deputy, the members of the municipal election commissions and their deputies are determined by the Law on Civil Servants."

Article 37

(1) "The Municipal Election Commission and the Election Commission of the City of Skopje takes care of the legality in the preparation and implementation of the elections in accordance with this code and conducts supervision of the work of the electoral committees.

(2) The Municipal Election Commission and the Election Commission of

the City of Skopje:

....

(7) controls the legality in the work of the electoral committees and intervenes in the cases where a violation of the legality is determined in the preparation, candidacy and implementation and establishing the results of the elections, as well as of the guidelines and recommendations it gives.

(8) prepares a report and delivers it to the State Election Commission."

Article 39

"(4) The manner and procedure of determining the responsibility for the illegal operations of the president, his/her deputy, the members of the electoral committees and their deputies are determined by the Labor Relations Law."

Article 40

"(1) The election committee takes care of the legal implementation of the elections.

(2) The Electoral Committee:

- 1) directly implements the voting at the polling station
- 2) provides regularity and secrecy of voting;
- 3) provides free and peaceful voting

...

6) prepares a report and maintains a journal of its work and delivers them to the municipal election committee

(3) The election committee takes minutes of its work and of summarizing the results on a unique form prescribed and authenticated by the seal of the State Election Commission and together with the election materials deliver them to the municipal election commission."

Article 93

"(3) For the members of the communities, the name of the party submitting of the list and the name and surname of the candidate, that is, the list holder, are written in the Macedonian language and its Cyrillic alphabet

and of the language and alphabet of the community to which they belong.

(4) In the municipalities where at least 20% of the citizens speak an official language other than the Macedonian language, the election ballots, besides in the Macedonian language and its Cyrillic alphabet, are printed in the official language and alphabet used by the citizens in that municipality.”

Article 95

“(1) The part of the ballot for voting for of the Republic contains:

- name of the ballot, municipality and number of the polling station for voting taking place in the Republic of Macedonia,
- name of the ballot and the head offices of the diplomatic and consular offices where voting takes place abroad,
- ordinal number, name and symbol (if any) of the petitioner of the list and
- name and surname of the candidates based on the data in the record books.”

Article 96

“(1) The part of the ballot for election of members of parliament contains:

- name of the ballot, number of electoral unit, municipality and number of the polling station,
- ordinal number, name and symbol (if any) of the party submitting the list and
- name and surname of the list holder based on data from record books.”

Article 97

“(1) The part of the ballot for election of council members contains:

- name of the ballot, municipality and number of the polling station,
- ordinal number, name and symbol (if any) of the petitioner of the list and
- name and surname of the list holder based on data from record books.”

Article 98

“(1) The part of the ballot for election of a mayor contains:
 - name of the ballot, municipality and number of the polling station,
 - name and symbol (if any) of the petitioner of the list and
 - ordinal number, name and surname of the candidates based on data from record books.”

Article 100

“(1) Not longer than one hour prior to the start of the voting, the Election Committee President and its members shall gather in the voting room and determine:

- whether the room is in the same condition as left on the day preceding the elections,
- whether the election material is in the same condition as on the day preceding the elections, and
- whether the ballot box is empty.

(2) The Election Committee shall compose minutes of the condition found, which shall be signed by its President and members.

(3) Any observations of the Election Committee President and its members shall be recorded in the minutes.

(4) In case the authorized and present representatives of the parties submitting a list have any objections, the President shall enable those representatives to have their objections entered into the minutes, so that the objections may constitute grounds for the procedure for protection of the election right.

(5) In case the objections of the authorized and present representatives of the parties submitting a list of paragraph (4) of this Article are not entered into the minutes, the representatives have the right to submit those objections with the municipal election committee within 5 hours after the minutes are signed,

(6) Authorized representatives also have the right to be present during the determination of the conditions prior to the start of the voting.

Article 103

“(1) The election committee takes care of the peace and order at the polling station.

(2) The election committee may remove any person who disrupts the

peace at the polling station.

(3) The facility where the polling station is located and its accessibility during the implementation of the voting is secured by the police.

(4) The election committee may seek the help of the police in establishing order at the polling station.

(5) Nobody may come armed to the polling station, except for the police in the case prescribed in paragraphs (3) and (4) of this Article."

Article 104

"(1) The election committee may stop the voting, if there is a disturbance of the peace at the polling station until it is reestablished.

...

(3) The election committee shall stop the voting if the access to the polling station is not secured by the police, and there was a need for it or if the police has been called, but has not shown up.

(4) The president or the vice-president of the election committee can call the police at the polling station if a need arises.

(5) If the voting is stopped for more than 1 hour, the voting will continue for the amount of time it was stopped, but no longer than 3 hours.

(6) The reasons for halting the voting and the duration of such a halt shall be entered into the minutes."

Article 105

"(1) If the representatives of the parties submitting the lists have any remarks on the work of the electoral committee, at the time of voting, they may point to such irregularities, so that they are removed.

(2) The president of the election committee must provide the present representatives of parties submitting the lists, if there are any remarks, with the opportunity to note those in the minutes and to use those remarks as the bases in the procedure for protection of the suffrage.

(3) If the remarks of paragraph (2) of this Article of the representatives of the parties submitting the lists are not noted in the minutes, they have a right to deliver them to the municipal election commission within 5 hours after sign-ing the minutes.

(4) If the authorized domestic observers have any remarks to the work of the electoral committee, they have the right to note them in the journal of the polling station.

(5) Representatives of the parties submitting the lists and the authorized domestic observers may from a close distance follow the determination of the identity of voters casting their votes."

Article 107

"(1) Voting is done in person at the polling stations in the Republic of Macedonia and at the diplomatic and consular offices.

(2) Proxy voting is forbidden, except in the cases prescribed in Article 111 of this code."

Article 108

"(1) The voters cast their votes one at a time.

(2) When the voter approaches to vote, the election committee checks if he/she is at the appropriate polling station, as well as if there is an inerasable mark on the right hand thumb.

(3) When the voter approaches to vote, the election committee checks his/her personal identity.

(4) The voter proves his/her personal identity with an ID or a travel document.

(5) The election committee, having established the voter's identity, circles his/her ordinal number in the excerpt of the Electoral List and the voter puts his/her signature, and if he/she is illiterate, he/she leaves a fingerprint of his/her right index finger. If the voter has no right index finger, he/she will leave a fingerprint of his/her left index finger, and if he/she has no left index finger, no fingerprint is left.

(6) Once identified, the voter receives a ballot and the thumb of his/her right hand is marked with spray, that is, the thumb of his left hand if he/she has no thumb on his/her right hand, ensuring in that that the spray also covers the nail of the thumb. If the voter has not thumbs on both hands, no marking shall be done."

Article 109

“(1) Voting is carried out with one ballot for each type of elections defined herein.

(2) Ballots shall be torn from the bundle of ballots in a numerical order, their front is sealed and they are given to the voter.

(3) Voters are given explanation as to the manner of voting and are enabled to cast their vote.

Article 110

“(2) Voters cast their vote in such a way that they circle the ordinal number in front of the party submitting the list or the ordinal number in front of the candidate of their choice and places the folded ballot in the ballot box.”

Article 112

“(1) The voter who has a disability or is illiterate, and due to that fact cannot vote in the previously described manner determined by this code, has a right to bring with himself a person who will help him vote.

(2) If the voter of paragraph (1) of this Article does not bring with himself a person who will help him/her in casting his/her vote, then the election committee shall assign another person from amongst the voters.

(3) The person who will help the other person cast their vote must not be from amongst the members of the electoral committee, the members of the parties submitting the list or the observers.

(4) One person can help no more than two voters of paragraph (1) of this Article.

(5) The election committee shall indicate to the person of paragraphs (1) and (2) of this Article that he/she should not influence the decision of the voter through his/her help.

(6) The election committee enters the voting of paragraph (1) of this Article into the minutes.”

Article 116

“(1) The election committee enters the following data in the minutes of the voting: the ordinal number of the polling station; the number of the decision to form the electoral committee; the time for commencement

and completion of the voting; the total number of voters in the polling station according to the excerpt from the Electoral List; the total number of voters who have voted; the total number of ballots cast in the ballot box; the total number of unused and destroyed ballots and the total number of votes won by each list of candidates separately.

(2) The minutes contain a special table part for summarizing and determining the results of the polling station.

(3) Any remarks given by the members of the election committee are also entered into the minutes."

Article 147

"(1) The procedure for protection of the suffrage is urgent.

(2) The submitted data (complaints and objections) for protecting the suffrage are delivered to the authorities by the previously deciding bodies.

(3) The secondary decisions of the authorities are final.

(4) The filing of an objection, complaint and legal action by mail is not allowed.

(5) Objections shall be filed in writing and contain the following elements:

- place, time, description of the violation, offender and evidence the objecting party points to,
- name and surname of the objecting party or their authorized representative.

(6) Objections may also be filed on special forms, prescribed by the State Election Committee and published in the "Official Gazette of the Republic of Macedonia" and on the Internet page of the State Election Committee."

Article 148

"(1) In the process of voting, summarizing and determining the voting results in case of voting for president of the Republic and for electing members of parliament any party submitting a list of candidates may file an objection with the State Election Committee.

(2) The objection of paragraph (1) of this Article is submitted within 48 hours after determining the irregularities.

(3) The State Election Committee must reach a decision within 48 hours after receiving the complaint.

(4) An appeal against the decision of the State Election Committee can be

filed to the Administrative Court of the Republic of Macedonia, within 48 hours after the receipt of the decision.

(5) The party submitting the list of paragraph (1) of this Article bases the complaint to the Administrative Court on the grounds and allegations indicated in the objection upon which a first-instance decision has been made.”

Article 149

“(1) Each voter whose suffrage has been violated by the procedure of implementation of the voting may file a complaint to the Administrative court within 24 hours.

(2) The first-instance institution must reach a decision within 24 hours after receiving the objection.

(3) An appeal against the first-instance institution may be filed to the Administrative Court of the Republic of Macedonia, within 24 hours after receiving the decision.

(4) In case the decision of paragraph (2) of this Article refers to a certain action of the election committee and the voting process is still ongoing, voters shall be enabled to exercise their right to vote.”

Article 150

“(1) The Administrative Court of the Republic of Macedonia reaches a decision upon the complaints of Articles 148 and 149 of this code as a council of five judges chosen by lot in an open session.

(2) The Administrative Court of the Republic of Macedonia must reach a decision within 48 hours after receiving the complaint.

(3) The Administrative Court of the Republic of Macedonia can confirm or alter the decision.

(4) The decisions upon objections or complaints and the appeal are published promptly on the website of the Administrative Court of the Republic of Macedonia, of the State Election Committee, the city election committee and the election committee of the city of Skopje and in any other appropriate manner.”

Article 151

“(1) The State Election Commission shall – ex officio or upon an objection

filed - issue a decision to annul the voting at the polling station if:

- the electoral board does not implement the voting in a manner determined by this code;
- the voting secrecy has been disrupted;
- the voting has been stopped for more than 3 hours;
- the police has not responded to the request of intervention by the electoral committee, despite the fact that there was need for it and that it influenced the implementation of the voting at the polling station;
- the number of ballots in the ballot box is bigger than the number of the voters who cast their votes; and
- a person or persons have voted for others.

(2) In the cases of paragraph (1), lines 1, 2, 5, and 6 of this Article, the State Election Committee, when deciding on objections and if the facts referred to in such objections have been entered into the minutes, shall inspect the entire election material.

(3) The state election commission shall repeat the voting at the polling stations in the cases of paragraph (1) of this Article where the voting has been annulled by a decision, only if the total number of registered voters at those polling stations on a level of electoral unit, city or municipality influences the overall results.

(4) A complaint against the decision of paragraphs (1) and (2) of this Article can be filed to the Administrative Court of the Republic of Macedonia, through the State, City or the Municipal Election Commission, within 24 hours after receiving the decision.

(5) The Administrative Court of the Republic of Macedonia must act upon a complaint within 48 hours after it receives it.

(6) The annulled voting at the polling station shall be repeated after 14 days of the voting date."

Article 179

"(1) A fine in the amount of Euro 500 to 1,500 in denar equivalent shall be imposed in case of an offence committed by an election committee member working contrary to the provisions of this Code (Article 19 (1))."

Article 191

"(1) A fine in the amount of Euro 500 to 1,500 in denar equivalent shall be imposed in case of a natural person voting for several individuals or

on behalf of others, as well as for preventing the presence of the police, provided that there was a need for such presence (Articles 102, 103, 111 and 112).”



Republic of Macedonia
State Election Commission

