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The Ballot Paper: a Constitutional Instrument of Electoral Democracy or a Means of Manipulating the Electorate?⁴

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Abstract

The article portrays the ballot paper as a constitutional instrument of electoral democracy. The authors argue that the result of an election often depends on the form, the content, and the method of filling out the ballot. It is shown that a ballot is an election instrument of standard form, by means of which a voter votes for candidates and/or lists of candidates, and which later allows to establish the election results. It is concluded that the definition and classification of ballot types has not only theoretical but also practical value. In particular, this issue is of great practical significance in four cases: 1) simultaneous elections of differing types (sometimes including a simultaneous vote at a referendum); election of candidates for elective offices under different types of electoral systems or different types of territorial constituencies; 3) the vote count and establishing the outcome of the election; 4) prosecuting criminals for the illegal use of ballots.

Keywords: ballot paper, constitutional instrument, elections, electoral democracy, electorate.

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Karta do głosowania: instrument konstytucyjny działający na rzecz demokracji wyborczej czy środek mający na celu manipulację wyborczą?⁵

Streszczenie

Artykuł omawia specyfikę karty do głosowania jako instrumentu konstytucyjnego typowego dla demokracji wyborczej. Autorzy dowodzą, że wynik wyborów zależy często od formy, treści i sposobu wypełniania kart do głosowania. W artykule zawarta jest ogólna charakterystyka karty do głosowania opisanej jako standardowy instrument wyborczy umożliwiający głosującym oddawanie głosów na preferowanych kandydatów lub na listy kandydatów, które to oddane głosy stanowią następnie podstawę do ogłoszenia wyników danych wyborów. Wnioskiem końcowym jest stwierdzenie, że zdefiniowanie i klasyfikacja poszczególnych rodzajów kart do głosowania ma wartość nie tylko teoretyczną, lecz także praktyczną. Podkreśla się tu szczególne znaczenie praktyczne roli karty do głosowania w czterech następujących okolicznościach: 1) prowadzenie różnych rodzajów wyborów jednocześnie (czasami zakładających jednoczesne głosowanie w ramach referendum); 2) wybory kandydatów ubiegających się o stanowisko wybieralne w ramach różnych systemów wyborczych lub w ramach systemu uwzględniającego podział na różne rodzaje okręgów wyborczych; 3) procedura liczenia głosów i ustalania wyników wyborów; 4) ściganie przestępców posługującymi się kartami do głosowania w sposób niezgodny z prawem.

Słowa kluczowe: karta do głosowania, instrument konstytucyjny, wybory, demokracja wyborcza, elektorat.

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Introduction

Abraham Lincoln once said that “The ballot is stronger than the bullet.” Lincoln’s thought is well justified since the ballot is the very instrument through which democracies are established or ended. It was the appearance of the ballot that allowed for the introduction of private voting during elections, which, in turn, has been safeguarding the free expression of the voters’ will. By virtue of a ballot, candidates become legitimate representatives of the people or territorial communities, and voters get a real opportunity of exercising their right to form national or local representative bodies. Thus, it is quite logical that a ballot is one of the most commonly used election instruments. There is no exaggeration in saying that the outcome of an election depends on the form, the content, and the method of filling out the ballot.

The issue of the form, content, and types of the ballot is constantly attracting the attention of scientists from around the world. British scientists D. Brook and G.J.G. Upton have studied the problem of biases in local government elections on account of the position on the ballot paper.⁶ Other British scientists, R. Johns and M. Shephard, have been exploring the influence of politicians’ photographs in ballot papers on electoral preferences.⁷ American scientists A. Reynolds and M. Steenbergen describe the issue of political consequences of ballot design, innovation, and manipulation.⁸ Australian scientists R. Darcy and I. McAllister investigate the effects of ballot position in elections.⁹ Australian scientist A. Leigh and New Zealand scientist T. Susilo look into the issues of estimating the impact of candidate ballot photographs on election outcomes.¹⁰ Irish scientists F. Buckley, N. Collins, and T. Reidy have considered “an attempt to facilitate greater voting participation in the Republic of Ireland, photographs of candidates have been placed on the ballot

⁶ D. Brook, G.J.G. Upton, *Biases in local government elections due to position on the ballot paper*, “Journal of the Royal Statistical Society: Series C (Applied Statistics)” 1974, 23(3), pp. 414–419.

⁷ R. Johns, M. Shephard, *Facing the voters: The potential impact of ballot paper photographs in British elections*, “Political Studies” 2011, 59(3), pp. 636–658.

⁸ A. Reynolds, M. Steenbergen, *How the world votes: the political consequences of ballot design, innovation and manipulation*, “Electoral Studies” 2006, 25(3), pp. 570–598.

⁹ R. Darcy, I. McAllister, *Ballot position effects*, “Electoral Studies” 1990, 9(1), pp. 5–17.

¹⁰ A. Leigh, T. Susilo, *Is voting skin-deep? Estimating the effect of candidate ballot photographs on election outcomes*, “Journal of Economic Psychology” 2009, 30(1), pp. 61–70.

paper for local, national, and European elections.”¹¹ Swiss scientist G. Lutz analyzes the effect of ballot layout on electoral success in open ballot PR elections.¹² A group of scientists, J. Blom-Hansen, J. Elklit, S. Serritzlew, and L.R. Villadsen tries – through an experiment – to answer the following question: what role does ballot layout play in the election results?¹³ The use of the ballot has also evolved into some patterns. For example, the US experts S. Petersen and H. Jaecks have proven the effectiveness of combined Electronic and Paper Ballot Voting System with electronic vote capture for automatic recording, tallying, and storing votes (Petersen and Jaecks 2005).¹⁴

Transformation of the ballot paper: from Antiquity to the Present

What is a ballot and what types of ballots exist in modern election practice? A ballot is an election instrument of standard form, by means of which a voter votes for candidates and/or lists of candidates, and which later makes it possible to establish the election results. The ballot is a document of strict accountability, with liability imposed for its unauthorized use.

The first well-established application of ballots for election purposes dates back to Ancient Rome, 139 B.C., following the approval of *Lex Gabinia tabellaria*, which introduced secret ballots for election of magistrates to the Popular Assembly (Marshall 1997).¹⁵ However, in our opinion, the first ‘ballots’ were applied in the birthplace of democracy, Athens, as early as 4th century B.C. In particular, this applies to ‘democracy through pottery shards’, also known as ostracism (Greek: ὄστρακισμός), introduced by Cleisthenes in 508 B.C. in order to pose a counter to the tyranny of Peisistratids. Classical ostracism stipulated that the decision to expel a citizen who gained excessive political authority from a polis was to be made by the Popular Assembly rather than the court, pursuant to secret ballot voting of free citizens,

¹¹ F. Buckley, N. Collins, T. Reidy, *Ballot paper photographs and low-information elections in Ireland*, “Politics” 2007, 27(3), pp. 174–181.

¹² G. Lutz, *First come, first served: The effect of ballot position on electoral success in open ballot PR elections*, “Representation” 2010, 46(2), pp. 167–181.

¹³ J. Blom-Hansen, J. Elklit, S. Serritzlew, L.R. Villadsen, *Ballot position and election results: Evidence from a natural experiment*, “Electoral Studies” 2016, 44, pp. 172–183.

¹⁴ S.D. Petersen, H.K. Jaecks., *U.S. Patent No. 6,951,303*, U.S. Patent and Trademark Office, Washington, DC 2005.

¹⁵ B.A. Marshall, *Libertas Populi: The Introduction of Secret Ballot at Rome and its Depiction on Coinage*, “Antichthon” 1997, 31, pp. 54–73.

who scratched the name of any citizen popular within their polis on pottery shards. Eventually, ostracism became an ambiguous instrument of political struggle between the political elites of the time, which was condemned by Aristotle. However, it was not used very often. Legal historians claim that there were approximately 18 well-established cases.¹⁶ The pottery shards indicating the name of the person to be sent into exile may evidently be considered one of the first ballots in the history of the Western civilization.

Since then, various forms of ballots have been used in election procedures – for instance, in the election of the Pope at the Conclave, etc. However, ballots acquired their modern significance only after the universal suffrage for election of democratic representative bodies was officially incorporated in the first Constitutions of the United States of America, France, and other countries. G. Prens stressed that “The beginning of universal suffrage, declared in 1793 (in 1793 French Constitution, which, according to K. Bidermann, ‘was never actually put into practice’ [Biderman 1866, p. 45]) and implemented in 1848, and being used in practice in the Continental Europe for fifty years already, commenced with the merge of Sieyes and Rousseau’s ideas.”¹⁷ This refers to the combination of the doctrine of people’s sovereignty (J.-J. Rousseau) with the doctrine of representative democracy, providing active engagement of political parties in the election process. It drew attention to the ballots, which became the battleground for political parties and majority candidates struggling for the voters’ preferences. Ever since, as R. Gneist wrote, “The entire society was imbued with the idea of voluntarism and elections.”¹⁸ The ballot becomes the symbolic representation of the latter.

In the modern election practice, ballot paper is the main means by which voters exercise their right to vote in elections. Only some countries, such as the Gambia, make exceptions from this rule. For example, in the Gambia, marbles are used instead of ballot papers. First, voters have their identity verified by election officers. Then, they are each handed a glass marble by election officers. The voter retreats into an enclosed space where they find drums with photos of the candidates hanged on them. Once they choose their candidate, they slip the token into a small hole atop of the selected barrel. Polling officials will listen carefully for the clang of a bicycle bell which is attached to the end of a tube inside the drum, preventing

¹⁶ V.V. Latyshev, *Essays on Greek Antiquities*, Part I: *State and military antiquities*, 2 ed., St. Petersburg 1888, p. 70.

¹⁷ G. Prens, *Suffrage universal. Its meanings and consequences*, translated from the French, St. Petersburg 1906, p. 7.

¹⁸ R. Gneist, *Representative system in England. Historical essay*, [in:] A. Gasthausen (ed.), *Constitutional principle, its historical development and its interaction with the political and social life of states and peoples. Digest of articles. In two parts*, Vol. 2, St. Petersburg 1866, p. 326.

people from voting more than once. Sawdust or sand is sprinkled at the bottom of the barrel so that no second sound is heard. Counting is snappy as the marbles are poured into a wooden tray with 200 or 500 holes and then counted. The counted votes are immediately declared at the polling stations.¹⁹

The importance of the ballot paper for safeguarding the election process is confirmed by incorporating the term in many constitutions of modern countries of the world. The term ‘ballot paper’ is present in the text of the Constitutions of Angola (Article 109), Malawi (Article 80), Malta (Article 56), Mauritius (Articles 1–3, First Schedule), Pakistan (Article 11, Second Schedule), Republic of the Congo (Article 71), Somalia (Article 141), Turkey (Provisional Article 17), Uruguay (Article 77), or Switzerland (Part 2 of the Final Provisions).

The structure of the ballot paper

In most countries of the world, a standard ballot paper consists of two parts. The first part of the ballot paper is the accounting slip separated by a polling official down the indicated separation line when handing over the ballot paper to the voter for voting in the election. The second part of the ballot paper is its main part, which usually includes the following elements: 1. Type and date of election. If the ballot paper is used to vote in a re-vote or a second round of an election, it is also indicated in the ballot paper. 2. Name and number of the constituency issuing the ballot paper. 3. Number of the polling station. 4. Instructions on filling out the ballot paper. 5. List of candidates and/or political parties. 6. A box for the voter’s mark confirming the expression of will in the election, printed in the form of a square, circle, oval, rectangle or rhombus next to the name of each candidate or political party. As a general rule, ballot papers are filled out with a pen – except for some countries like e.g. Burundi, Mali, Nigeria, and Togo, where ballot papers are filled out with a fingerprint (Figure 13).

In a number of countries, such as Bangladesh, Bulgaria, Chile, Colombia, France, India, the Russian Federation, Spain, and the United States (in some states), the ballot paper contains items stating “Do not support any candidate”, “None of the above” or “Against all”. In the Ukraine, the item “Do not support any candidate” (Ukrainian: “Не підтримую жодного кандидата”) had been used in elections until 2010 inclusive. The name of the item “Against all” (Russian: “Против всех”) in the ballot paper is provided by the election legislation of the Russian Federation for

¹⁹ Abdur Rahman Alfa Shaban, *Gambia to switch from glass marble voting to use of ballot papers*, “Euronews” 2018, <https://bit.ly/2IvyB5A>.

local elections. According to Article 64 of the Federal Law No. 67-FZ of June 12, 2002 "On Basic Guarantees of Electoral Rights and the Right of Citizens of the Russian Federation to participate in a Referendum": "a voter participating in a referendum shall vote by putting any mark in the box (boxes) corresponding to the candidate (candidates) or a list of candidates chosen by the voter, or the box to the right of the words "Against all candidates" ("Against all lists of candidates"), and in a referendum ballot, by putting any mark in the box corresponding to the option chosen" (Russian Federation, 2002).

The item "Against all" is also provided in the Constitutional Law of the Kyrgyz Republic "On Presidential and Jogorku Kenesh Elections in the Kyrgyz Republic" of 2011. According to Articles 30, 31, 35 of the Constitutional Law: "at the end of the candidates' and political parties' list there is a line "Against all" with an empty square field located to the right of it. [...] Voter shall put a mark in the appropriate field of the ballot to indicate a candidate or political party in whose favour the choice was made, or shall indicate his/her attitude by marking the "Against all" field. [...] Then votes shall be counted based on the ballots of the established form separately for each candidate, the list of candidates and the "Against all" position" (Kyrgyz Republic, 2011).

In other countries: Bulgaria, Chile, Colombia, Haiti, India, Spain, the USA (Nevada), the item "Against all" in the ballot paper is unofficial and is used only in election practice.²⁰ In Bulgaria, India, and Nevada in the United States, the "Against All" item is expressed on the ballot in the form of "None of the above" or "NOTA" (Figures 2), "None of These Candidates" and in Haiti – "okenn kandida" (Haitian Creole). In Argentina, Chile, Colombia and Spain, the item "Against all" is featured in the ballot papers under the name of "Voto en blanco" (Figures 1), and in France – as "Vote blanc", which can be translated into English as "empty vote" or "zero vote".

The inclusion of items "Against all" or "None of the above" in ballot papers lets a voter legally express their protest against all of the candidates listed. Apparently, a sizeable proportion of such "protest ballots" casts doubt on the legitimacy of the elected representative bodies or officials.

The possibility of voting against all candidates entered has its pros and cons. The inclusion of "None of the above" item into the ballot paper was even subject to litigation in the Supreme Courts of Greece and Italy. "Pro" reasoning can be found in the Supreme Court of India judgment as of September 23, 2013, in "People's Union for Civil Liberties vs. Union of India" case, which recognized the constitutionality of including the "None of the above" item. In this judgment, the Supreme

²⁰ V. Nesterovych, *Election Campaign: Dictionary of Slang Terms and Expressions*, Kyiv 2020, p. 648.

Court of India emphasized the following positive aspects of giving voters the opportunity to vote against all candidates (The Supreme Court of India, 2013):

1. Democracy is all about choice. This choice can be better expressed by giving the voters an opportunity to verbalize themselves unreservedly and by imposing least restrictions on their ability to make such a choice. By providing NOTA button in the EVMs, it will accelerate the effective political participation in the present state of democratic system and the voters in fact will be empowered (§ 51).
2. Giving the right to a voter not to vote for any candidate while protecting their right of secrecy is extremely important in a democracy. Such an option gives the voter the right to express their disapproval with the kind of candidates that are being put up by the political parties. When the political parties realize that a large number of people express their disapproval with the candidates being put up by them, gradually, there will be a systemic change and the political parties will be forced to accept the will of the people and field candidates who are known for their integrity (§ 55).
3. The direction can also be supported by the fact that in the existing system, a dissatisfied voter ordinarily does not turn up for voting which in turn provides a chance to unscrupulous elements to impersonate the dissatisfied voter and cast a vote, be it a negative one. Furthermore, a provision of negative voting would be in the interest of promoting democracy as it would send clear signals to political parties and their candidates as to what the electorate think about them (§ 56).
4. The mechanism of negative voting, thus, serves a very fundamental and essential part of a vibrant democracy (§ 58).

The inclusion of an item allowing to vote against all candidates (Spanish: “Voto en blanco”) was also supported by the Constitutional Court of Colombia in its judgment in case no. C-490 in 2011, indicating that voting against all candidates in the election is a valuable expression of the voters’ disaccord with the nominated candidates, which is based on political freedom and is in full correspondence with the Constitution of Colombia (Corte Constitucional Colombiana, 2011).

The Venice Commission has a different opinion on this issue, opposing the existence of an item in the ballot paper that allows voters to vote against all candidates. Paragraph 142 of the Report on Electoral Law and Electoral Administration in Europe – Synthesis study on recurrent challenges and problematic issues (CDL-AD(2006)018-e) states: “Still unusual for established West European democracies is the possibility of casting a negative vote (“against all”). The negative vote system stems from the communist tradition of non-competitive elections and is

still used in a number of Council of Europe member states. It gives voters the possibility of expressing their annoyance with the candidates and parties/blocs on the ballot paper. In this way, however, political and party apathy in the population can be strengthened if the voters are able to simply reject candidates and parties instead of making the (often not easy) decision as to who is better (or best of the worst) candidate or party. As a matter of principle, voters should be encouraged to vote for their preferred candidate or party and thereby take the responsibility for the body that is being elected" (Venice Commission, 2006). Thus, the existence of an item allowing voters to vote against all candidates depends on the national particularities of different countries.

Typology of ballot papers

Modern election legislation of different countries provides for a fairly large number of ballot types. The following reasons explain the existence of this vast variety of ballots: 1) different political and legal tradition of holding elections in different countries and regions of the world; 2) different types of elections; 3) different types of electoral systems applied in the elections; 4) different types of filling out (completing) the ballots; 5) different risks of election fraud; 6) continuous improvement of the content and form of the ballot papers. Therefore, the typology of ballots in modern election practice can be based on various criteria.

The following types of ballots are applied in modern elections:

1. Depending on the form:
 - a) paper ballots: state-controlled print on paper, used in most countries;
 - b) electronic ballots: generated in the process of electronic election voting in some countries (Estonia, Canada, the USA (in some states and counties), France, Switzerland (in certain cantons and communities). In order to obtain a ballot in election, a voter must log in to an automatic voting system via the Internet using personal email address for voting, or log in to an electronic voting system using an electronic voting machine at the polling station. Election legislation in the countries that allow electronic voting during elections specifically regulates the use of electronic ballots. For instance, according to Article 50-4 of the Constitutional Act "On Elections in the Republic of Kazakhstan" of 1995, during the election organized with the use of an electronic electoral system, voting shall be conducted with the use of electronic ballot created by means of the electronic electoral system.

2. Depending on the method:

- a) text-based ballot papers: such ballots contain only the text expressing the information on political parties and candidates. Text ballots are used in Albania, Armenia, Azerbaijan, Belarus, Belgium, France, Georgia, Kazakhstan, Kyrgyzstan, Latvia, the Netherlands, Poland, South Korea, Switzerland, Tajikistan, the USA, Ukraine, and Uzbekistan;
- b) image-based ballot papers: such ballots contain not only text, but also the emblems, symbols, pictures, and photos of the candidates listed as well as other images. Image-based ballots are mostly used in countries in Africa, Asia, and South America, enabling illiterate voters to personally vote in election. With images in the ballot, such voters can easily recognize the political party or candidate they wish to vote for in the election (Figures 1, 3, 6, 8, 9, 12, 13, 14). In Nepalese elections, the ballot paper contains no names of candidates or political parties whatsoever; instead, only the symbols with which the voters associate certain candidate or party are printed (Figure 4). Despite the fact that the use of image-based ballots is not particularly widespread in Europe, they are used in elections in more than 10 countries.

For instance, image-based ballots are used during elections in Ireland, where the ballots contain, besides the text, the emblems of the political parties and the photos of the candidates nominated for election (Figure 6). In Cyprus, the ballots for presidential elections are printed in black-and-white and contain portraits of the candidates for presidency together with the emblems of their political parties. In Portugal, the ballots for presidential elections contain black-and-white portraits of candidates next to their names (Figure 5). In the UK (Figure 15), North Macedonia, Portugal, and Romania, the ballots for all types of elections contain emblems of political parties. In Sweden, most of political parties standing for election place the logo of the party on such party's ballots. In parliamentary elections to the European Parliament in Greece, Spain, Malta, Slovenia, and Hungary (Figure 7), election ballots contain only the emblems of political parties.

Photographs of candidates are used in election ballots of nearly 60 countries of the world. Such countries include Afghanistan, Angola, Argentina, Bolivia, Cote-d'Ivoire, Democratic Republic of the Congo, Guinea, Ghana, Honduras, Haiti, Ireland, Liberia, Lebanon, Mali, Paraguay, the Republic of South Africa, Republic of the Congo, Rwanda, Salvador, Sierra-Leone, Tanzania, Uganda and Zimbabwe. The ballots containing candidates' portraits are used solely in presidential elections

of Algeria (Figure 9), Benin, Burundi, Guatemala, Guinea-Bissau, Ecuador, Egypt, Yemen, Zambia, Indonesia, Cameroon, Kenya, Central African Republic, Chad, Colombia, Costa-Rica, Cyprus, Madagascar, Mauritania, Mali (Figure 13), Malawi, Mozambique, Mongolia, Nigeria, Peru, Portugal (Figure 3), Seychelles, Senegal, Syria, Sudan, Togo, Tunisia (Figure 14), Turkey (Figure 8), Uruguay, West Timor, and Venezuela. At the same time, the obvious disadvantage of an image-based ballot paper is the significantly higher cost of its printing as compared to a text-based ballot. The advantage of image-based ballot papers is the enhanced recognisability of political parties and candidates standing for election. When image-based ballot papers are used, it makes the use of such manipulative election technique as electoral clones extremely difficult.

In the post-Soviet countries, the creation of registered 'clone' candidates in the elections has become widespread, and in certain constituencies, the leading candidates have had several registered 'clones' in the ballots. For example, a real 'parade' of registered electoral 'clones' could be seen in the mid-term parliamentary elections of Ukraine, which took place on July 17, 2016, in single-seat electoral district no.27 (Dnipropetrovsk region). 4 candidates with the surname "Krasnov", 4 candidates with the surname "Rychkova", 4 candidates with the surname "Tomchuk", 2 candidates with the surname "Horb", and two candidates with the surname "Momot" were registered in the district. The use of 'clone' candidates causes a significant enlargement of the ballot size.²¹ The active use of 'clone' candidates in Ukrainian elections has been repeatedly highlighted in the reports of reputable observation missions that have witnessed such elections. For example, in the report of OSCE/ODIHR Election Observation Mission "Final Report on Early Parliamentary Elections of Ukraine of 26 October 2014", it is stated that "majoritarian elections included a high number of so-called 'clones' with names similar to those of other candidates" (OSCE/ODIHR, 2014);

- c) ballot papers made with Braille script: produced with relief-and-dot Braille script in order to enable visually impaired voters to express their will in election independently. The use of Braille ballot papers had not been widespread for a long period of time, hence such ballot papers were used only during elections in India, the USA (locally in certain states), and in Sweden. The situation has somewhat changed over the last decade, when the use of Braille ballot papers increased. In 2013, the Braille ballot papers

²¹ Ibidem, p. 213.

were made use of for the first time in the post-Soviet area during Azerbaijan presidential elections. Starting from 2016, the Braille ballot papers have been used in local elections of Kyrgyzstan and in presidential elections of Uzbekistan, and starting from 2017, in regional elections of Indonesia and in presidential elections of Rwanda. The greatest disadvantage of Braille ballot paper is the significantly higher cost of their production compared to regular ballot papers. Therefore, most countries use the much cheaper stencils for ballot papers made with Braille script (Figure 19).

3. Depending on the size:

- a) small ballot papers: ballot papers with the size not exceeding 200x200 mm, with the number of candidates up to 6. Most often, small ballot papers are used in elections with a small number of candidates or during the second round of elections, where the ballot papers include only two candidates who received the most votes in the first round of elections;
- b) medium ballot papers: ballot papers with the size ranging from 200x300 mm to 200x600 mm, with the number of candidates or political parties from 7 to 30. Medium ballot papers are the most widespread type of ballot papers in this classification;
- c) large ballot papers: ballot papers with the size 200x700 mm and larger, with the number of candidates or political parties exceeding 30. Unusually large ballot papers are often called “meter-long ballot paper” or “giant ballot paper”. The appearance of unusually large ballot papers in an election procedure is caused by four main reasons. First, ballot papers, as a rule, consist of one page and are printed on single side, since printing on two sides may lead to a part of the names being placed on the less noticeable side of the ballot paper; there is also the risk of the vote mark being pushed to the other side of the paper with a pen or a pencil, leading to incorrect vote count. Second, a large number of candidates or parties nominated for the election increases the physical dimensions of a ballot paper essentially. Third, the practice of combining several types of voting procedures in election or referendum ballots. For instance, in the United States, all elective offices at the local level, as well as the matters submitted to referendum, are combined in one ballot called the “Composite Ballot”. Fourth, in some electoral systems, such as the open-list proportional representation, ballot papers are almost always large, since a single ballot must include not only the parties but all the candidates from the parties’ candidate lists. Large preferential ballot papers are applied in

parliamentary elections of Australia, Afghanistan, Indonesia, the Netherlands, and Thailand.

4. Depending on the language:

- a) ballot papers printed in a single national or official language: Azerbaijan, Albania, Armenia, Argentina, Brazil, Bulgaria, Burkina-Faso, Colombia, France, Germany, Hungary, Iran, Italy, Japan, Latvia, Lithuania, Mexico, North Macedonia, Poland, Portugal, South Korea, Spain, Turkey, the UK, Ukraine, Venezuela, (Figures 1, 3, 7, 8, 10, 12, 13, 15, 17, 18). Belarus uses monolingual ballot papers, which, according to Article 71 of the Electoral Code, are printed in the Belorussian or Russian language (Belarus 2000);
- b) ballot papers printed in the languages of national minorities: used in a number of states in the USA (mostly, in the Spanish language); in Bolivia in Spanish, the state language, and duplicated in more than 50 official languages; in Georgia in the Georgian language, but in Abkhazia duplicated in the Abkhazian language as well, and translated into any language understood by the local population if necessary;
- c) ballot papers printed in several official languages: used in the countries with two or more officially spoken languages: Algeria (in Arabic and French, Figure 9), Belgium (in Dutch and French; and in German and French in the settlements of German-speaking Belgians of East Wallonia), Kazakhstan (Kazakh and Russian), Cameroon (in English and French), Canada (in English and French), Luxembourg (in Luxembourgian and French), Tunisia (in Arabic and French, Figure 14), Finland (in Finnish and Swedish, Figure 11), Sri-Lanka (in Singhalese, Tamil, and English).

5. Depending on the number of candidates:

- a) a single-candidate ballot, with the name of only one candidate included in the ballot. Most often, the so-called "name ballots" contain the name of only one candidate (Figures 1, 2). In the countries with an unlimited number of candidates who may be listed in the ballot, single-candidate ballots are mainly used in the following two cases: 1) when a person with extremely high electoral rate is nominated for a democratic election, and no other person wants to compete with the said candidate in this election. For example, it often happens during the election of judges in the United States that only one candidate is included in the ballot, and it is the highly reputable judge currently holding that office. In such an event, the election becomes the re-appointment of the judge in office; 2) in elections in totalitarian states – for example in North Korea;

- b) a ballot with two candidates, with the names of only two candidates included in the ballot. Ballots with two candidates are used predominantly in the second round of election in the states with the absolute majority electoral system (Figures 12, 13), and if only two candidates are nominated for the election.
 - c) a ballot with three or more candidates, with the names of three or more candidates included in the ballot (Figures 1, 2, 3, 6, 8, 11, 14, 15, 17, 18). Such ballot type is used in most countries due to the high level of election competitiveness and different political allegiance of the candidates;
6. Depending on the specifics of the positioning of the names of candidates or political parties:
- a) name ballots: a separate ballot is made for each candidate standing for election, containing the candidate's surname, name and – often – their photo. Name ballots are used in elections in Algeria, Cameroon, the Czech Republic, France, and Senegal (Figures 9, 10);
 - b) party ballots: they are made for the list of each party participating in the electoral process, containing the name of the political party and the names of all candidates nominated in a multi-seat constituency: Greece, Latvia (Figure 18), Sweden. Party ballots are applied under the proportional representation systems with preferential voting;
 - c) general ballots: they contain the list of all candidates and political parties standing for a certain type of election (in most of the countries – Figures 1–8, 11, 14, 17);
 - d) blank ballots: they have no names of the candidates, but contain a line where a voter must write the number under which the candidate or the party is nominated, and the name of such a candidate or party: Estonia, Iran, Italy in elections to the European Parliament, Finland (Figure 11), Japan, and Sweden.
7. Depending on the positioning of the candidates or political parties:
- a) ballots with vertical positioning of candidates or political parties, with the list of the names of candidates or political parties running from top to bottom: Armenia, Azerbaijan, Belarus, Canada, Egypt, Germany, Georgia, Ghana, Jamaica, India, Ireland, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Lithuania, Malta, Moldova, Nigeria, North Macedonia, Peru, Poland, Portugal, Rwanda, Seychelles, South Korea, Tajikistan, Uganda, the UK, Ukraine, Uzbekistan, Zambia, Zimbabwe (Figures 2, 3, 13, 17);
 - b) ballots with horizontal positioning of candidates or political parties, with the list of the names of candidates or political parties running from left to right (in all elections of Cote-d'Ivoire and Turkey, presidential elections

of Bolivia, Cyprus, Ecuador, Indonesia and Togo, in the second round of presidential elections of Benin, Guinea, Haiti, Honduras, Mali; in Tunisia – from right to left – Figures 8, 12, 13);

- c) ballots with combined horizontal and vertical positioning of candidates or political parties, with the list of the names of candidates or political parties running both from top to bottom and from left to right (Belgium, Colombia, the Netherlands, Salvador, the USA) and, in some Arab countries like Tunisia – from right to left – Figures 1, 4, 5, 7, 14, 18).
8. Depending on the numbering of candidates or political parties:
- a) numbered ballots, containing internal index numbers of candidates or political parties: Belgium, Cyprus, Austria, Angola, Georgia, Haiti, Latvia, Luxembourg, the Netherlands, Poland, Spain, Tunisia, Ukraine (only in parliamentary elections in the general national constituency), Finland, Sweden (Figures 2, 7, 11, 14, 17, 18). The numbered positioning of the candidates or political parties in the ballot is made by drawing of lots or in the alphabetical order. Numbered ballots make it possible to reduce the occurrence of such manipulative election methods as clone candidates since the candidates or political parties represent only their own names and numbers in the ballot during the election campaign;
 - b) unnumbered ballots, containing no internal index numbers of candidates or political parties: Argentina, Belarus, Canada, Guatemala, Ireland, Kazakhstan, Lebanon, Lithuania, Mali, Mexico, Moldova, Nepal, Portugal, the UK (most of the elections), Ukraine (most of the elections) (Figures 3, 4, 5, 6, 8, 10, 13, 15, 16).

During the presidential elections in the Ukraine in 2019, the absence of index numbers in the ballot was subject to litigation. But the Supreme Court in the panel of judges of the Administrative Court of Cassation in case no. 855/72/197 as of March 13, 2019, refused to satisfy the claim to oblige the Central Election Commission to approve the ballot with internal index numbering of the candidates, referring to the following grounds. First, the election legislation stipulates a finite and definite list of information a ballot must contain, with no reference to obligatory numbering of respective lines in the ballot containing the personal data of the candidates for presidency. Second, the approval of the ballot form and the text falls within the discretionary powers of the Central Election Commission. Thus, the court's decision to force the Central Election Commission to amend the Decree of the Central Election Commission No. 512 as of March 8, 2019 would constitute an interference with the Commission's discretionary powers (Ukraine 2019, Case No. 855/72/197).

A rather interesting approach to the numbering of candidates and political parties could be seen in the parliamentary elections in the Ukraine – in particular, the Early Parliamentary elections of 2019 held with mixed electoral system. In the General National constituency, the political parties were numbered, while in the single-seat electoral districts, there were no numbers in the ballots.

9. Depending on the type of election:
 - a) ballots for parliamentary elections, used to elect members of a parliament (Figures 4, 5, 6, 7, 15, 16, 17, 18, 20);
 - b) ballots for presidential elections, used to elect the president of a state (Figures 1, 3, 8, 9, 10, 11, 12, 13, 14);
 - c) ballots for regional elections, used to elect regional elective bodies (Figure 2);
 - d) ballots for local elections, used to elect local governmental bodies.
10. Depending on the type of the electoral system:
 - a) ballots used under the majority electoral system (Figures 1, 3, 8, 9, 10, 11, 12, 13, 14, 15, 16);
 - b) ballots used under the proportional electoral system (Figure 7);
 - c) ballots used under the combined electoral system (Figure 17).
11. Depending on the number of election rounds:
 - a) ballots for the first election round, used under the majority electoral system with relative majority rule, containing the names of all the candidates nominated for the election (Figures 1, 3, 8, 11, 14);
 - b) ballots for the second election round, used under the majority system with the absolute majority rule, including only two candidates who received the most votes in the first round of elections (Figures 10, 12, 13);
 - c) ballots for the third election round, used if it was impossible to elect the person for the elective position in the second round of the elections. This type of ballots may be used in the third round of the presidential elections of Armenia, Estonia, and Somalia.
12. Depending on the number of persons elected within a constituency:
 - a) ballots for a single-seat constituency, containing the list of candidates nominated for one office or position. Most often, this type of ballots is used under the majority electoral system (Figures 1, 3, 10, 8, 11, 12, 14, 15, 16);
 - b) ballots for a multi-seat constituency, containing the list of parties, blocks or voting lists of candidates nominated for election to a collegial elective body (Figures 4, 7). This type of ballots is often used under the propor-

tional electoral system. In the event that parliamentary elections or elections of regional/local governmental bodies are held under the combined electoral system, voters often receive two ballot papers: one for the single-seat constituency, and the other one for the multi-seat constituency. Occasionally, e.g. in Germany, the voting in one type of election in the single-seat constituency and the multi-seat constituency is combined within a single ballot.

13. Depending on the location of the constituency:
 - a) ballots for voting within general national constituency, used in national presidential and parliamentary elections under the closed-list proportional representation system (Figures 1, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14);
 - b) ballots for voting within territorial constituencies, used in elections of MPs from territorial constituencies, as well as in regional and local elections (Figures 6, 15, 16).
14. Depending on the voting method:
 - a) closed ballots: a voter can only put the mark next to the name of the candidate or political party, without indicating the order of preferences regarding certain candidates: Armenia, Azerbaijan, Georgia, Germany, Hungary (Figure 7), Kazakhstan, Ukraine;
 - b) preferential ballots: voting is made by the order of the voter's preferences regarding certain candidates: Belgium, Latvia (Figure 18), the Netherlands;
 - c) ranking ballots: voting is made by ranking the names of the candidates in the ballot (Australia);
 - d) ballots enabling voters to enter the name of their candidates – Estonia, Iran, Italy in the elections to the European Parliament, in Finland, Sweden (Figures 11, 16, 20).
15. Depending on the means of voting:
 - a) ballots for voting at the polling stations, used in every single country of the world where elections are held;
 - b) ballots for voting by mail, used in Austria, Australia, Bosnia and Herzegovina, Germany, Ireland, Malaysia, Spain, Switzerland, the UK, the USA; for voting abroad in Italy, Latvia, Mexico, Norway, the Netherlands, and Sweden.
16. Depending on the quantity of elections:
 - a) regular ballots, intended for voting in a single type of elections and used in most countries worldwide;
 - b) composite (combined) ballots, intended for voting in two or more types of elections simultaneously, as well as containing the matters put to

a referendum. Composite ballots are not widespread and are used only in certain countries, e.g. in the United States.

17. Depending on the issuing body:
 - a) ballots issued upon order of an elective body, used in most countries of the world;
 - b) ballots issued upon order of political parties, used only in certain countries due to the high risk of electoral fraud. For instance, in Sweden, according to Article 8 Chapter 6 of the Elections Act of 2005 (2005: 837), only the parties that gained not less than 1% of votes in the last election have the right to print the ballots for election to the Riksdag and the European Parliament at the expense of the state, and for elections to district councils or municipal assemblies – only the parties represented in such a council or assembly (Sweden, 2005).
18. Depending on the result of filling out the ballot:
 - a) completed ballots, containing a voter's mark for a given candidate of a political party (Figure 13, 16, 18, 20). The ballots may be completed correctly, incorrectly or intentionally spoiled by a voter;
 - b) blank ballots, containing no mark of a voter (Figure 14, 15). The main reasons for appearance of blank ballots are, first of all, a voter's inattentiveness while filling several ballots; second, such ballots may be a form of a voters' protest.
19. Depending on the correctness of ballot completion:
 - a) duly completed ballots: ballots filled out by the voters in accordance with the requirements of the legislation in force, which will further be taken into account during the vote count (Figure 13, 16, 18, 20);
 - b) spoiled ballots: ballots filled out by the voters in contradiction to requirements of the legislation in force, which will not be taken into account during the vote count.
20. Depending on the origin (legitimacy):
 - a) authentic (legitimate) ballots: issued by an authorized body in accordance with the requirements of the election legislation in force in the quantity defined by respective election commission;
 - b) false (illegitimate) ballots: issued by a non-authorized body with the purpose of election fraud. False ballots may be of high and low quality.
21. Depending on the amendments made to the text:
 - a) original ballots: the content of the ballots remains unchanged from the moment of their printing till the election date;

- b) amended ballots: with amendments made by the polling officials after printing by affixing the “withdrawn” stamp next to the name of the candidate who has withdrawn from the election.
22. Depending on the result of use in the election:
- a) used ballots: ballots taken into account by the election commission when the election results are established at the polling station. Used ballots may be valid or invalid;
 - b) unused ballots: ballots that were not handed to the voters because of their failure to appear at the election, or voters that were not used due to the lack of voters.
23. Depending on the legal validity:
- a) sample ballot paper: an invalid ballot paper produced by an election commission, political party or other entity as a sample to help voters understand the procedure adopted for filling in the ballot paper during the election (Figure 17);
 - b) valid ballot: a ballot made in accordance with the requirements of the election legislation in force, which may be counted for a certain candidate or political party as a result of voting in the election;
 - c) ballot that is not subject to accounting: a ballot with the name, number of the constituency and/or number of the polling station does not correspond to the real name and number of the constituency and/or number of the polling station where the vote count takes place, as well as ballots with the affixed seal of another election commission, or any other seal;
 - d) invalid ballot: a ballot treated by the election commission during the vote count as spoiled or not filled out by the voter, and not corresponding to the requirements of the legislation set for the ballots to be considered as used. Invalid ballot is the official term adopted in international acts in the sphere of elections and the national election legislation in a number of countries. As set forth in section 4a of the Code of Good Practice in Electoral Matters of 2002, non-compliance with the secrecy of the ballot must be punished by disqualifying any ballot whose content has been disclosed. At the same time, in section 49 of the above-mentioned Code, it is pointed out that “it is best to avoid treating too many ballot papers as invalid or spoiled. In case of doubt, an attempt should be made to ascertain the voter’s intention” (Venice Commission 2002).

In general, the share of invalid ballots is one of the indicators for evaluating the quality of election management and the ability of voters to fill out the ballots correctly. The main reasons for invalid ballots being found by election commissions

during the vote count are the following: 1) poor work of district polling officials when issuing the ballots to the voters; 2) mistakes made by the voters when filling out the ballots; 3) the voters' protest against all candidates by means of intentional spoiling the ballots; 4) an attempt to sabotage the election at the polling station.

According to the data of the International Institute for Democracy and Electoral Assistance (International IDEA), possessing the most comprehensive global database of electoral statistics in presidential and parliamentary elections since 1945 and including 186 countries, the average global share of invalid ballots amounts to about 3% of all the ballots. On the other hand, if we look at the statistics for individual countries, we can clearly see quite a large difference in numbers. The smallest number of invalid ballots has been noticed in the Kingdom of Tonga – 0.17%, the UK – 0.23%, Trinidad and Tobago – 0.33%, the United States – 0.40% and Armenia – 0.42%. The largest number of invalid ballots has been reported in Algeria – 24.46%, Peru – 23.13%, Ecuador – 22.21%, Bolivia – 20.80%, Burundi – 19.45%.²²

The average share of invalid ballots in the presidential and parliamentary elections of the Ukraine is 1.97%, while in certain elections, such as the presidential elections of the Ukraine held in 2004, the issue of the ballot invalidity became so critical that the Central Election Commission had to approve the Decree "On invalid ballot papers" No. 1074 as of October 30, 2004, pursuant to which the CEC filed the application to the Prosecutor's General Office for verifying the facts of intentional spoiling of the ballots by certain polling stations in over 16 territorial constituencies and taking respective measures. Generally speaking, the analysis of the Central Election Commission data on the outcome of the parliamentary and presidential elections of Ukraine has shown that the largest share of invalid ballots was observed in the early parliamentary election of 2007 – 4.40%, and the smallest share was noticed in the re-vote of February 7, 2010, with only 1.19% of the ballots considered invalid.

Conclusions

A wide variety of ballot types are made use of in the modern election process. The definition and classification of ballot types has not only a theoretical but also a practical value. In particular, this issue is of great practical significance in four cases: 1) simultaneous elections of differing types (sometimes including a simultaneous vote at a referendum); 2) election of candidates for elective offices under different types of electoral systems or in different types of territorial constituencies;

²² International IDEA, 2020, Invalid Votes, <https://www.idea.int/data-tools/question-view/443>.

3) the vote count and establishing the outcome of the election; 4) prosecuting criminals for the illegal use of ballots.

There are many events in the modern election process when a voter receives two or more ballots and has to distinguish them easily during the voting procedure. Thus, if two or more ballots are used during the election, they are manufactured in different colours. When the voter receives two or more ballots simultaneously, even if they are of different colours, it enables a wide range of electoral violations. For example, the simultaneous parliamentary and local election of the Ukraine in 2006 caused the issuing of eight different ballot types to the voters, for election of: 1) members of the Parliament of the Ukraine; 2) deputies of the parliament of the Autonomous Republic of Crimea and local councils; 3) deputies of local councils; 4) deputies of municipal councils; 5) deputies of district municipal councils; 6) deputies of village councils; 7) city mayors; 8) village mayors. All this led to great confusion, mainly among elderly people. For many of them, such voting became an impossible task and violated the principle of rational voting. The Electoral Code of the Ukraine removed such discrepancies between the ballots (Ukraine 2019). Its provisions will be applied for the first time during local elections in October 2020.

As a result of this research into the nature, content, and form of the ballot as an instrument of electoral democracy, we have been able to formulate the following principles of approval and use of ballots:

- ❑ adaptability of ballots to regional peculiarities, i.e. taking into account the historical, geographical, linguistic, cultural, and other election traditions in order to use a certain ballot type for voting;
- ❑ accessibility of the content of the ballot to a regular voter, taking into account the level of the voters' education, and application of images to indicate the candidates and political parties standing for election;
- ❑ single-choice formulation of the question in the ballot, even if there is a possibility of "None of the above" voting;
- ❑ validity of the ballot, i.e. safeguarding its uniform use at different polling stations;
- ❑ conciseness of the ballot, absence of unnecessary information that can distract the voter's attention from the candidates;
- ❑ limitation of the number of ballots issued to one voter simultaneously for voting in different types of elections (since the necessity of filling more than 3–4 ballot papers forces the voters to stay at home);
- ❑ innovative nature of the ballot, highlighting the level of scientific and technological development in a certain state; in particular – use of electronic ballots;
- ❑ technical protection of the ballot with the purpose of avoiding its forgery and election fraud.

Such principles will facilitate fair and transparent elections in countries with stable democracy as well as in the countries that are still developing their democratic potential.

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Figure 1. 2006 Colombian presidential election ballot with Vote en blanco



Source: ACE Project: bit.ly/2FthlDA.

Figure 2. NOTA in Electronic Voting Machines in Himachal Pradesh Assembly Elections 2017 in India



Source: IBTimes: bit.ly/2V36nGP.

Figure 3. Ballot used in the 2011 Portuguese presidential election



Source: Herdeiro de Aécio: bit.ly/2OVeiV0

Figure 4. Ballot used in the 2018 Elections for Nepal’s National Assembly



Source: Election Commission: bit.ly/2ElitXV.

Figure 8. Ballot used in the 2018 Turkish presidential election



Source: Stratfor: <https://bit.ly/2KdUObL>.

Figure 9. Name ballot paper used in the 2014 Algerian presidential election



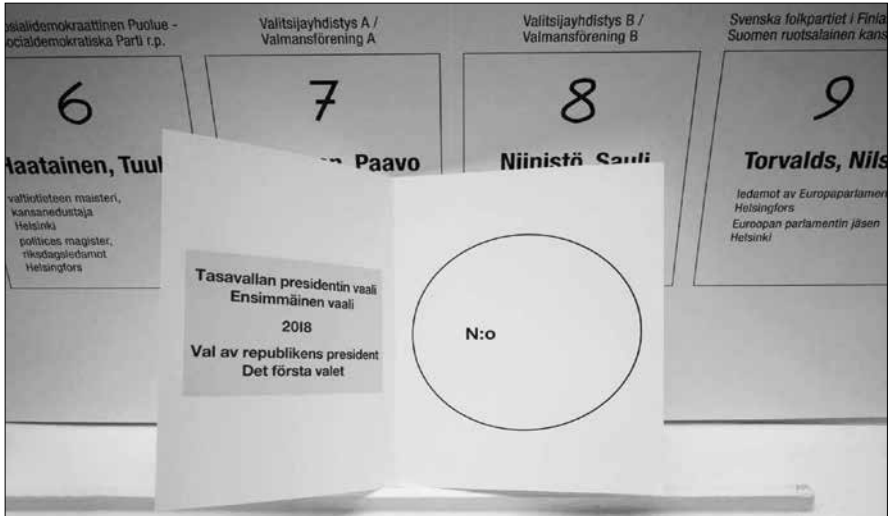
Source: Wikiwand: bit.ly/2NYVDY5.

Figure 10. Name ballot paper and envelope used in the 2012 French presidential election



Source: Oui In France: bit.ly/2xS9bu1.

Figure 11. Blank ballot (front) and booklet with numbers of candidates (behind) in the Polling booth used in the 2018 Finnish presidential election



Source: Velvollisuuksia: bit.ly/2Rmdpm0.

Figure 12. Ballot paper used in the 2015 Argentine presidential election



Source: Javier Smaldone: bit.ly/2PBnMVE.

Figure 13. Ballot paper used in the 2017 UK general election



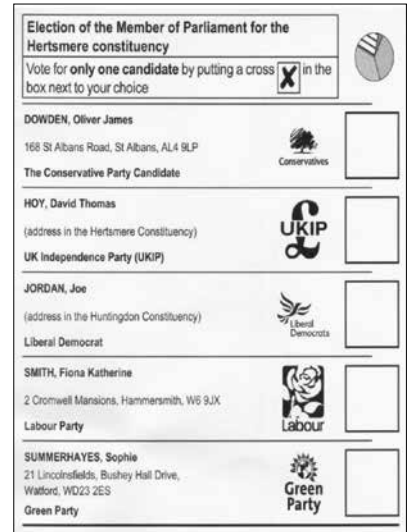
Source: Picssr: bit.ly/2HNWBSm.

Figure 14. Ballot paper used in the 2014 Tunisian presidential election



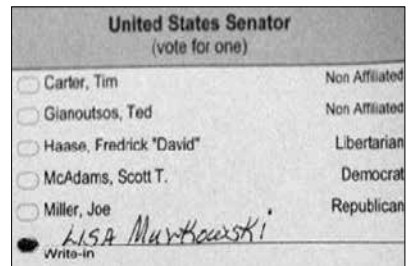
Source: Instance Supérieure Indépendante pour les Élections: bit.ly/2Rv5Lpw.

Figure 15. Ballot paper used in the 2017 UK general election



Source: Picssr: bit.ly/2HNWBSm.

Figure 16. Ballot paper used in the 2010 United States Senate election in Alaska



Source: Occasional Planet: bit.ly/2HG9BXn.

Figure 17. Ballot paper used in the 2017 German federal election



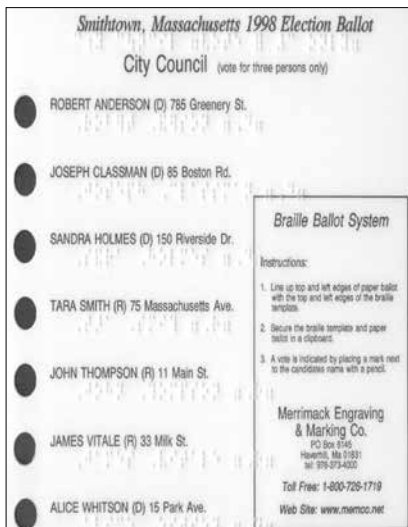
Source: Klartext.la: <https://bit.ly/2o2ik2h>.

Figure 18. Ballot paper used in the 2014 European Parliament election in Latvia



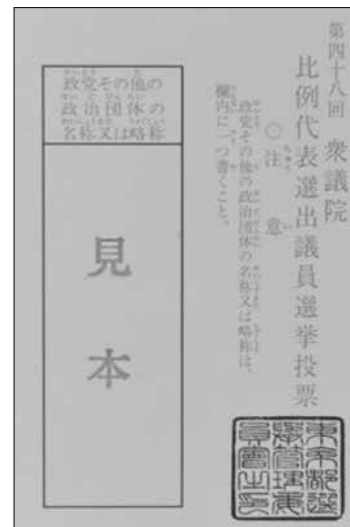
Source: MEDW: <https://bit.ly/2ORdwFd>.

Figure 19. Ballot paper used in the 1998 Massachusetts city election



Source: www.memco.net/ballot.htm.

Figure 20. Ballot paper used in the 2017 Japanese general election



Source: 時事ドットコム: bit.ly/2OXiXXL.