



HANDBOOK FOR DOMESTIC ELECTION OBSERVERS

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HANDBOOK FOR DOMESTIC ELECTION OBSERVERS



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INTRODUCTION

In recent years, observation of elections and referendums has emerged as an important task in support of democratic transition and human rights. Elections are essential to democracy, and public confidence in the institutions and processes surrounding elections is essential to establishing the basis of authority for any democratic government. While international observation has received the most attention and publicity, the importance of domestic observation has grown significantly. Today, there are more than twenty-five domestic observer groups or coalitions in the OSCE region.

Domestic election observation contributes directly to the promotion and protection of human rights. Moreover, the conduct of a transparent and open election process in accordance with established legislation and international standards is an essential element of a democratic society. The right of political participation is important because it presupposes adherence to other basic human rights such as the rights to freedom of expression, movement, assembly, and association. Observation by domestic observer groups can help to deter violations and promote confidence in the honesty and integrity of the electoral process. This, in turn, serves to encourage popular participation.

Election observation has evolved considerably in the last ten years, and it is now recognized that the integrity of an election depends as much on what happens in the pre- and post-election periods as on election day. Consequently, there has been a need for both international and domestic observers to develop a more structured and comprehensive approach to election observation. This handbook has been developed to document the

methodologies that can be employed by domestic observer groups to provide a more comprehensive and systematic approach to election observation.

The methods outlined are neither exhaustive nor exclusive; rather, they should serve as a tool for domestic observer groups. The intention is not to provide a definitive methodology that must be followed; rather, it is to outline methodologies that have been developed and used effectively over the past decade by both international and domestic observers. As such, this handbook may also be of use to international organizations involved in election observation, as well as to political party and candidate observers, who play an equally important role in monitoring elections. As the techniques for election observation advance, so too will approaches to monitoring elections. It is hoped that as experience in observation is accumulated, lessons learned will be shared by international and domestic observers from both inside and outside the OSCE region.

The handbook has been developed in collaboration with more than twenty domestic observer groups in the OSCE region and also reflects the experience of domestic observer groups from other parts of the world. In addition, the handbook draws on the experience of the OSCE/ODIHR and other international organizations involved in election observation, in particular the National Democratic Institute for International Affairs (NDI) and Electoral Reform International Services (ERIS), and it contains material from OSCE/ODIHR and NDI publications. Another guide produced by the NDI entitled “How Domestic Organizations Monitor Elections: An A-Z Guide” is a particularly useful resource for domestic observer groups to consult and can be used alongside this handbook.

1

ELECTION ASSESSMENT



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- Assess an election in accordance with a country's international commitments and national legal framework
- Pay particular attention to the OSCE Commitments for democratic elections contained in the 1990 "Copenhagen Document"
- Consider the degree to which an election is an improvement over previous elections

A. INTERNATIONAL STANDARDS ON ELECTIONS AND HUMAN RIGHTS¹

The integral role that transparent and open elections play in ensuring the fundamental and universal right to democratic participatory government and respect for political rights is enshrined in a number of international documents that are applicable to OSCE participating States. Most significant is Article 21 of the Universal Declaration of Human Rights,² which states:

UNIVERSAL DECLARATION OF HUMAN RIGHTS, ARTICLE 21

1. EVERYONE HAS THE RIGHT TO TAKE PART IN THE GOVERNMENT OF HIS COUNTRY, DIRECTLY OR THROUGH FREELY CHOSEN REPRESENTATIVES.
2. EVERYONE HAS THE RIGHT TO EQUAL ACCESS TO PUBLIC SERVICE IN HIS COUNTRY.
3. THE WILL OF THE PEOPLE SHALL BE THE BASIS OF THE AUTHORITY OF GOVERNMENT; THIS WILL SHALL BE EXPRESSED IN PERIODIC AND GENUINE ELECTIONS WHICH SHALL BE HELD BY UNIVERSAL AND EQUAL SUFFRAGE AND SHALL BE HELD BY SECRET VOTE OR BY EQUIVALENT FREE VOTING PROCEDURES.

¹ For a more comprehensive analysis of international norms relating to democratic elections in the OSCE region, see *Existing Commitments for Democratic Elections in OSCE Participating States: A Progress Report*. This and other useful documents can be found on the OSCE/ODIHR website at <http://www.osce.org/odihr/elections/standards>.

² The full text of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other UN human rights standards can be accessed on the United Nations High Commissioner for Human Rights website at <http://www.unhcr.ch>.

The Universal Declaration of Human Rights (UDHR) is the foundation of subsequent human rights standards and commitments, including the UN International Covenant on Civil and Political Rights (ICCPR),³ the Council of Europe's European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and commitments agreed upon by the Conference for Security and Co-operation in Europe (the CSCE, later the OSCE) in Copenhagen in 1990, which have become known as the Copenhagen Document.⁴ This key document emphasizes the central role of elections in securing citizens' right to participate in the government of their country.

In summary, the Copenhagen Document requires states to:

- ▶▶ Hold free elections at reasonable intervals;
- ▶▶ Permit all seats in at least one chamber of the legislature to be popularly elected;
- ▶▶ Guarantee universal and equal suffrage;
- ▶▶ Ensure votes are cast by secret ballot and that they are counted and reported honestly, with the results made public;
- ▶▶ Respect the right of citizens to seek office;
- ▶▶ Respect the right to establish political parties and ensure the parties can compete on the basis of equal treatment before the law and by the authorities;
- ▶▶ Ensure that political campaigning can be conducted in a free and fair atmosphere without administrative action, violence, intimidation, or fear of retribution against candidates, parties, or voters;
- ▶▶ Ensure unimpeded access to the media on a non-discriminatory basis;
- ▶▶ Ensure that candidates who win the necessary votes are duly installed in office.

Standards concerning the protection of the right of an individual to legal redress have been formulated in the Universal Declaration (Articles 8, 10, and 11), the International Covenant on Civil and Political Rights (Articles 2(iii), 9, and 140), the European Convention for the Protection of Human Rights and Fundamental Freedoms (Articles 6 to 7 and 13) and the Copenhagen Document (Article 5).

States have increasingly expressed concern for the participation of women in public life. The Universal Declaration and other international instruments and OSCE commitments make clear that everyone is entitled to all human rights, including the right to political participation, without discrimination on the basis of sex or other factors. More detailed international standards relating to this issue are to be found in the UN Convention for the Elimination of Discrimination Against Women (CEDAW) and the OSCE's 1991 Moscow Document on the human dimension (Articles 40, 40.4, and 40.8).

³ Article 25 of the ICCPR grants every citizen, without discrimination, the right and the opportunity to vote and to be elected.

⁴ Council of Europe human rights conventions and standards can be accessed on the Council's website at <http://www.coe.int>. All OSCE documents can be accessed on the OSCE's website at <http://www.osce.org>.

The protection of national minorities and equal political rights of persons belonging to minorities are included in many international human rights instruments. They have also received increasing attention and are addressed in such international standards as the UN Convention on the Elimination of All Forms of Racial Discrimination (Article 2); the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (Article 2); the Council of Europe's Framework Convention for the Protection of National Minorities (Article 15); and the OSCE's Moscow Document. These standards have been further elaborated in the Lund Recommendations on Effective Participation of National Minorities in Public Life.⁵

Significantly, Paragraph 8 of the Copenhagen Document provides justification for the role played by international and domestic observers in the OSCE region by asserting that “the presence of observers, both foreign and domestic, can enhance the integrity of the electoral process.” Paragraph 10 supports the right of civic organizations to have “access to and communication with similar bodies within and outside their countries and with international organizations” and to “solicit, receive and utilize ... financial contributions from national and international sources....” Further, in Paragraph 12, participating States “decide to accept as a confidence-building measure the presence of ... representatives of non-governmental organizations ... at proceedings before courts.”

⁵ The Lund Recommendations were drafted in 1999 by a group of experts commissioned by the OSCE High Commissioner on National Minorities. For an account of their development, see *The origin and nature of the Lund Recommendations on the Effective Participation of National Minorities in Public Life*, Helsinki Monitor, Volume II, No. 4, 2000. In 2001, the ODIHR published *Guidelines to Assist National Minority Participation in the Electoral Process*, which can be found at http://www.osce.org/odihr/documents/guidelines/gl_nmpa_eng.pdf.

SLOVAK DOMESTIC OBSERVER GROUP WINS RIGHT TO OBSERVE ELECTIONS

In 1998, a group of Slovak citizens formed a domestic observer group, Občianske Oko (Civic Eye), to monitor the parliamentary elections held in September that year. However, in contrast to international observers who were permitted to enter polling stations and were provided with access to the electoral administration at all levels, Občianske Oko's observers were denied this right by the electoral authorities.

Občianske Oko challenged the constitutionality of this decision in the Constitutional Court, citing their constitutional right as citizens to participate in elections. In a landmark decision, the Constitutional Court found in Občianske Oko's favour and asserted the rights of citizens to observe elections in Slovakia.

B. USE OF INTERNATIONAL STANDARDS IN ASSESSING ELECTIONS

The degree to which an election complies with internationally agreed standards provides a benchmark for both international and domestic observers to assess an election. International standards, by their nature, tend to be quite general, setting out broad principles for implementation by states. A domestic observer group will be faced with many specific issues to assess against general standards. As a rule, international standards are sufficiently clear to enable a domestic observer group to assess with little difficulty whether they are being adhered to. In some cases, however, the situation may be less clear-cut, and, in such instances, care should be taken to distinguish between international standards, with which all states must comply, and good practices, which are desirable but not mandatory.

The paragraphs below set out briefly some specific issues that a domestic observer group should look for in regard to several key international standards accepted by all OSCE States: periodic elections, genuine elections, free elections, fair elections, universal and equal suffrage, and voting by secret ballot. The government of each country is primarily responsible for ensuring these commitments are adhered to.

- **Periodic elections** means elections held at regular intervals, as set by law. The period of time between elections should not be unreasonably long. Seven years is normally seen as the maximum reasonable period between elections for the chief executive; five years is normally seen as a maximum for lower houses of parliament. Officials of the executive branch of government should not be elected for life.
- **Genuine elections** refers essentially to a real choice for the voters and reflects the right of the people to change their government. If there are no credible opposition candidates, unreasonable restrictions on the formation or conduct of political parties or candidates, or no reasonable prospect that voters would have the power to vote incumbents out of office, then the genuineness of elections is called into question.
- **Free elections** means that human rights and fundamental freedoms are upheld before, during, and after the election. All citizens, parties, and candidates must enjoy freedom of expression, association, assembly, and movement. The election process should be free from intimidation, violence, administrative action, or fear of retribution. The media should be able to cover the campaign freely, and civil society organizations should be free to undertake election-related activities. For example, domestic observers should be able freely to monitor the voting and counting, and the tabulation of results should be visible and verifiable from the level of the polling station to any intermediate levels of the election administration and finally to the Central Election Commission.
- **Fair elections** should ensure a level playing field for contestants, with equal treatment under the law and by the authorities. Laws should be non-discriminatory and implemented fairly. All candidates who wish to run should be able to do so. Public resources should not be used unfairly. Public media should be even-handed. The election administration should act impartially. Voting, counting, and tabulation should be free from fraud. Candidates who receive the required votes should be installed in office. Candidates and voters should have access to effective redress for complaints, including through an independent judiciary. Those responsible for violations of the law should be held accountable.
- **Universal and equal suffrage** means that all citizens who have reached qualifying age should have the right to vote, without discrimination. There should be an effective, impartial voter registration system, without poll taxes. All voters, including disabled and internally displaced persons, should have access to polling stations or other voting procedures. There should be no restrictions on voting by persons belonging to minorities, by

women, or by other groups of voters. Equal suffrage also means each vote should have the same value. Under proportional representation, the number of representatives for each district should be proportional to the size of the electorate, and thresholds should not be so high as to effectively disenfranchise large numbers of voters. Under majority voting systems, the population of, or number of voters in, constituencies should be approximately equal; a variance of more than 10 per cent could be cause for concern.

→ **Voting by secret ballot** means that voters mark their ballots alone, in the privacy of a secure voting booth, and in a manner that the marked ballot cannot be viewed before it is deposited in the ballot box and cannot later be identified with a particular voter. Any group voting, proxy voting, or voting outside of a polling booth compromises the secrecy of the vote.

C. USE OF NATIONAL STANDARDS IN ASSESSING ELECTIONS

In addition to assessing the compliance of an election with international standards, a domestic observer group should also assess its conformity with a country's constitution and domestic legislation. As a constitution supercedes all domestic legislation, the legal authority of the legislation can be judged by its adherence to the principles laid down in the constitution. Similarly, administrative regulations draw their authority from the relevant legislation.

In short, the laws and constitution of a country should be in line with its international commitments, and a domestic observer group should assess an election against the framework of both international laws and commitments and national legislation.⁶

D. COMPARISON WITH PREVIOUS ELECTIONS

When assessing an election, a domestic observer group might also consider the degree to which it is an improvement over previous elections. This can be done by referring to previous reports issued by international organizations and domestic observer groups. OSCE/ODIHR election observation reports can be found on the organization's website at <http://www.osce.org/odihr>.

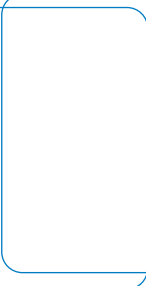

⁶ The OSCE/ODIHR regularly comments on electoral legislation and has developed a website that catalogues relevant domestic legislation adopted in the OSCE region on all aspects of the human dimension. The ODIHR analysis of electoral legislation and election reports can be found on its website at <http://www.osce.org/odihr>. The catalogue of legislation can be found on the website <http://www.legislationline.org>. The Venice Commission of the Council of Europe also comments on election legislation. Its website is <http://venice.coe.int>.

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DEVELOPING AN OBSERVATION PROGRAMME



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- Identify key issues to be assessed and evaluated
 - Identify available human and financial resources
 - Address planning and institutional issues before commencing operations
 - Establish a programme and organizational structure that takes account of the electoral and political situation and available human and financial resources
 - Develop capacity to implement the programme
 - Ensure impartiality and adherence to a code of conduct

A. NEEDS ASSESSMENT

As elections are not one-day events, a domestic observer group should begin planning operations well in advance of election day. Relevant national legislation should be thoroughly analysed to establish if there are any restrictions on domestic observer groups engaging in election observation. Restrictions might include the need to register with the authorities to include domestic election observation activities in the group's statute and a prohibition on domestic observer groups receiving funding from foreign organizations. The review of legislation should also assess the practical implications of the procedures for applying for and receiving accreditation or credentials as observers. The decision on whether to form an association of civil society organizations to conduct the election observation may also be guided by the specifics of national legislation and its implications. These issues are of vital importance and may determine the feasibility of mounting an election observation operation. Therefore, the lead time necessary to meet requirements of the legislation, as well as to secure sufficient funding, may be as much as one year or even longer.

As a first step to developing an observation programme, a domestic observer group should conduct a needs assessment to evaluate the most appropriate scope, scale, and timing of observation operations and how the resulting proposals can best be achieved. If required, the needs assessment can then be used as a basis to draft a project proposal with a view to securing funding. The assessment should address both methodological and administrative issues to ensure that the most important election issues receive due attention and that administrative and financial capacity are sufficiently developed to support the operation.

The first objective of the needs assessment should be to identify the scope of operations. Possible focus areas include an analysis of the legal framework; formation, effectiveness, and impartiality of the election administration; complaints and appeals processes; registration of parties and candidates; voter registration; the election campaign, including the media and campaign finance; respect for human rights; election day; and the reporting of election results. However, while the pre- and post-election periods are as important as election day, it might not be feasible for every organization to monitor all these aspects of the process. Therefore, priorities should be set and plans made accordingly. Some observer groups might choose to focus on only one aspect or set of aspects of an election. For example, a group may wish to limit the goals of its observation to assessing the participation of women, minorities, or disabled persons in an election, or it may wish to concentrate on the media, legal issues, or other specific elements of the process.

As a starting point, a domestic observer group should undertake a thorough review of reports issued by international and national organizations and other human rights-monitoring groups after previous elections. In addition, it should conduct an analysis of relevant legislation, including the election, political parties, media, and NGO laws and research the relevant case law. Evaluation of past experience should be combined with an analysis of the current political, economic, and social situation affecting the atmosphere in which the elections are to be held. A timeline of election events should be extrapolated from the election law and other relevant legislation prior to commencing observation activities.

The type of election can have a critical impact on election observation methodology and be a significant factor in observer deployment during the pre-election period. Different approaches may be required, depending on whether an election is presidential, parliamentary, local, or a national referendum. Where it is decided to recruit regional monitors, it is advisable to deploy observers according to the structure of the election commissions so that each unit is responsible for an election area corresponding to an administrative region or a

block of election districts or even a constituency. The election system may be based on proportional representation or single-/multiple-mandate constituencies or some combination of the two. Elections may be one- or two-round contests. These are important variables. For instance, in a parliamentary election based on a national list system, observers will not be able to observe candidate registration, and a national election campaign may be more in evidence than in a constituency system. Conversely, for parliamentary elections using a majoritarian system based on constituencies, or local-government elections, observers may have many separate election contests to follow at the same time. These factors should be taken into consideration during the needs assessment, as they will potentially determine observation methodology. In some types of election, it may not be possible to cover all the territory effectively, and so deployment may be based on a representative sample of election areas or even limited to a single region.

One final consideration is whether the domestic observer group should engage in other election-related activities such as public information or “get out the vote” campaigns or any form of assistance to the election or state authorities. Serious consideration should be given to these issues with a view to possible conflict of interest with the core observation activities, as it is sometimes difficult to maintain a dividing line between observing the process and being an actor in the process.

B. PLANNING AND INSTITUTIONAL ISSUES⁷

In formulating the scope, scale, and timing of observation activities, a realistic evaluation of available human and financial resources should be made. A domestic observer group could be a single organization or an association or network of civil society organizations. Either model can work effectively, and both are used within and outside the OSCE region.

Staffing Issues

Where an established civil society organization or an association of civil society organizations decides to undertake an election observation, it may still be necessary to recruit new staff. Key questions and issues in this regard include:

⁷ The NDI handbook *How Domestic Organizations Monitor Elections: An A-Z Guide*, published in 1995, provides more detail about the development of a domestic observation group and programme.

- ▶▶ Which positions will be salaried;
- ▶▶ The scale of salaries (which should be in line with other national civil society organizations);
- ▶▶ The length of the terms of contracts (most staff should be contracted shortly before the commencement of the phase they are tasked to monitor, e.g., media monitors should begin work no later than the day the official campaign starts and end their activity shortly after election day);
- ▶▶ Whether to have a long-term regional observation presence;
- ▶▶ Whether to pay long-term observers operating in the regions or whether volunteers will be recruited;
- ▶▶ Whether to pay short-term election-day observers or whether volunteers will be recruited. It should be noted that any form of payment may diminish the voluntary aspect of the operation and may draw less-committed, less-objective recruits. If it is decided to make “honoraria” payments, this amount should not exceed the amount paid to polling-station officials;
- ▶▶ Appropriate rates for reimbursement of staff or volunteers’ expenses (for instance, transportation to attend training sessions or visit polling stations).

These decisions will affect the proposed budget and may influence donor interest in supporting observation activities. Therefore, it is advisable to develop a recruitment policy that addresses these issues and ensures that no staff members or volunteers are engaged in any activity that could create a conflict of interest (for instance, serving as an election commissioner, holding an executive or leadership position in a political party, or registering as a candidate). In the case of a consortium of civil society organizations, it is of utmost importance that all organization(s) involved are, and are perceived to be, politically neutral and that membership of the association does not conflict with their other activities.

A domestic observer group should develop a methodology to recruit national, regional, and election-day observers, possibly by advertising the key positions and through using public-service announcements in national and local media. While volunteers should be assessed to ensure they meet the requirements of the job, are able to work impartially, and are available for the tasks involved, the opportunity to serve as an observer should be open to a wide cross section of society.

When recruiting staff and observers, a domestic observer group should try as far as possible to ensure gender, age, ethnic, and linguistic group balance. Once the recruitment of regional monitors and observers is completed, thorough training should be provided. Consideration should be given to providing copies of training materials to other bodies, e.g., the Central Election Commission, to ensure transparency. When deploying observers, a domestic group should assess the advisability of volunteers observing in the area of their residence and ensure that arrangements are made for observers to vote.

Institutional Issues

The advantage of a single organization is that management and decision-making are easier than in a consortium. Conversely, a consortium may contain civil society organizations with specific expertise in a particular field, e.g., media monitoring, or an established presence in a particular region, thereby strengthening observation capacity and professionalism. Any consortium should be as broad-based as possible. A consortium of respected civil society organizations may have more credibility than a single organization, particularly where multiple domestic observation organizations are operating and competing for media coverage simultaneously. In general, domestic observer groups should avoid duplicating activities with other civil society organizations, except in special circumstances, and should note that international donors are unlikely to fund new observation activities where a credible organization is already operating. In such cases, the objective should be to maximize the synergy of new activities and add value to ongoing activities.

To ensure that relations between consortium members run as smoothly as possible, it is advisable to draw up an association agreement to be signed by all the authorized representatives of the civil society organizations involved. To facilitate consensual decision-making, resolve institutional issues, and promote transparency of financial reporting, the association could consider establishing a board or committee of directors with persons nominated and elected to the key positions. However, day-to-day administration of operations should rest with the Management and Editorial Unit (see below).

Financial Issues

Adequate financing of an observation operation is critical. The planned operational structure should therefore be based on: (i) secured funds; and (ii) potential additional funds. Where additional funding is required to implement the observation activities, a domestic observer group could consider approaching national and international donors. However, it is advisable to draw up a contingency plan, should some or all of the finance not be forthcoming. In addition, an observer group should ensure that sources of funding do not compromise the independence and objectivity of its assessment of the election process.

Potential donors include intergovernmental sources such as the European Commission, local embassies, development and technical co-operation agencies, and international NGOs and foundations.

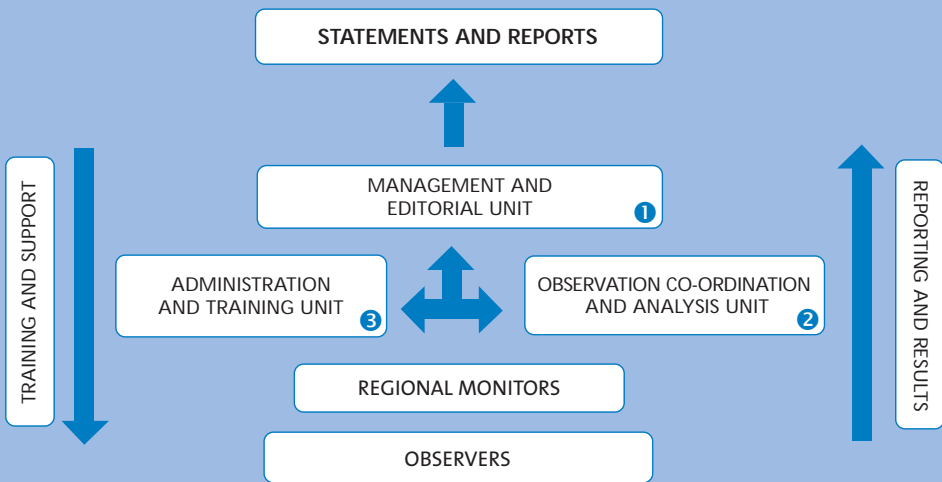
To support a funding application, donors will require a detailed project proposal. Some international donors may issue guidelines for applicants and require a standard project proposal format. It is advisable to formulate project proposals taking into account the funding priorities, strategies, and available budget lines of the international organization well in advance of the planned start of operations. In general, the proposals should have a project title; outline the main themes (e.g., democratization, conflict prevention, NGO capacity-building); include a detailed budget (in Euro, US dollars, or local currency); clearly state the aims, objectives and justifications of the project; identify the beneficiaries and target groups; and outline other considerations (such as joint funding possibilities, timing, etc.). In principle, the proposals should be circulated to a wide variety of donors.

In addition to staff salaries and volunteer expenses, including transportation, other major items in the budget are likely to include: rental of office space, office equipment, services, communications, printed materials, production of training materials, possible accommodation expenses, publicity expenses, and costs to identify observers (e.g., badges or T-shirts). The budget should cover all requirements and have a small amount reserved for contingencies. Donors are likely to be impressed by a budget justified by the project proposal, a clear demonstration that the domestic observer group is not being overly ambitious and has the capacity to absorb project finance as well as evidence of attempts to reduce costs where possible.

Donors will want to ensure financial propriety. Thus, adequate financial controls and capacity to prepare appropriate financial reports are of exceptional importance. Where a consortium of civil society organizations is created, a separate bank account must be set up. However, such decisions will be guided by the association agreement, the statutes of the civil society organizations, and relevant national legislation and administrative regulations.

C. PROGRAMME STRUCTURE AND FUNCTIONS

Once a domestic observer group has decided what it can realistically observe, it should consider the most effective organizational structure. Experience shows that an observation structure should include three elements: ❶ a unit that oversees the management of the programme and issues public statements and reports; ❷ a unit that undertakes co-ordination and analysis; and ❸ a unit for administration, including finance, logistics, and training.



SAMPLE DOMESTIC ELECTION OBSERVATION STRUCTURE

D. NATIONAL OPERATIONS

1 THE MANAGEMENT AND EDITORIAL UNIT

This unit should have responsibility for overall co-ordination of the observation programme, including liaising with the international community and donors, communicating with key national stakeholders, determining observation policy and methodology, and agreeing on the content of public statements and reports. If a consortium of civil society organizations has been formed, it may be decided that representatives from the various organizations involved should be members of this unit. Alternatively, management of the programme could be undertaken by those with the most appropriate skills, regardless of the organization they are from, and a separate forum containing representatives of all civil society organizations involved in the programme could be established to agree on public statements and reports. This could be a board or committee of directors. A staff member should be appointed to the Management and Editorial Unit to act as the press officer and to handle all matters related to public affairs.

2 THE OBSERVATION CO-ORDINATION AND ANALYSIS UNIT

This unit should observe and analyse electoral issues at the central level, liaise with key national players, and co-ordinate the collection and analysis of information from the regions and districts. Depending on resources available and the key issues identified, the work of this unit should cover the following areas:

- **Legal:** involving analysis of the legislative framework; maintaining contact with, and monitoring the work of, the courts and judiciary; and monitoring the resolution of disputes;
- **Election Administration:** including contact with staff of the national election commission, monitoring the management of the election process, collating resolutions or administrative decisions of the election commission, and assessing the accuracy of the voter lists;
- **Media:** involving contact with the media and journalists' unions/federations and monitoring the conduct of the media during the election period;

- **Campaign:** including contact with political parties and candidates' campaign teams and monitoring and assessing issues covering freedom of association, assembly, and expression, as well as the equality and fairness of the campaign environment;
- **National Minorities:** involving contact with representatives of national minorities and relevant government institutions and civil society organizations and monitoring and assessing the participation of national minorities in the electoral process;
- **Gender:** involving contact with government institutions and non-governmental organizations concerned with equal opportunities and monitoring and assessing the participation of women in the electoral process and coverage of issues of concern to women;
- **Co-ordination of Regional Monitors:** including providing guidance and instructions and receiving and analysing reports from the regions.

The unit should include staff with relevant experience, e.g., staff with a legal background. The unit should also include staff with expertise in statistics who will be responsible for the development of statistical-evaluation tools and the collation, entry, and analysis of quantitative information.

3 THE ADMINISTRATION AND TRAINING UNIT

This unit should be responsible for all aspects of administration, including the preparation of budgets and accounts, recruitment, and the maintenance of a database of volunteers. In collaboration with the Observation Co-ordination and Analysis Unit, it should also be responsible for co-ordinating training, including the development of materials, recruitment of trainers, and conduct and evaluation of training for staff and volunteers at all levels.

Training for members of the Management and Editorial Unit and Observation Co-ordination and Analysis Unit should be of a very high standard. If local capacity is on hand, then this should be used; otherwise, a domestic observer group should consider drawing on international expertise, either from a domestic observer group from a different country that has experience in election observation or from an international organization or NGO with expertise in this area. Once trained, members of the Management and Editorial Unit and Observation Co-ordination and Analysis Unit could be used to train staff and observers at regional and local levels.

E. REGIONAL AND LOCAL OPERATIONS

As resources permit and as required, a domestic observer group should also deploy observers at a regional level to observe the pre-election period and the voting, counting, and tabulation processes. Having a regional presence can be particularly important in a parliamentary or local-government election where candidates are registered at the district/municipal level. Furthermore, an assessment of the accuracy of the voter lists and interference in campaign activities is best achieved through a strong presence at the local level.

→ **REGIONAL MONITORS** should be responsible for maintaining contact with all relevant stakeholders in the area in which they are based. Their duties should include monitoring freedom of association, assembly, and expression; the role of local government during the election process; the performance of the election administration and any other executive bodies, the judiciary, public prosecutors, and security organs; the involvement and impartiality of local media outlets; and gender and national minority issues. They could also be used to conduct voter list surveys and monitor procedures at voter registration centres where necessary and, after receiving the appropriate training, monitor court sessions where election disputes are heard. Regional monitors could be deployed for a few weeks up to a number of months, depending on the need and resources available. In addition to their monitoring duties, regional monitors could also be responsible for the recruitment, training, supervision, and deployment of observers.

→ **OBSERVERS** should be responsible for observing voting, counting, and the tabulation of results in polling stations and tabulation centres. They could also be responsible for participating in a parallel vote tabulation (PVT) or a “quick count” based on a representative sample of polling-station results, should this activity be attempted.⁸

⁸ A “quick count” based on a representative sample of results can be highly useful in determining the accuracy of results, particularly in a national proportional contest. Although less accurate than a PVT, a quick count is much easier to set up and usually gives results much more rapidly than a PVT. However, it is necessary to ensure that the sample is representative. Therefore, an experienced statistician familiar with the social and population data of the state should be engaged to provide advice.

F. IMPARTIALITY

It is essential that a domestic observer group makes every effort to ensure that it conducts its activities impartially. Both the group as a whole and individual observers should be aware that perceptions are as important as reality, and they must be seen to be acting impartially at all times. If the impartiality of a domestic observer group is compromised at any stage, this will undermine the credibility of its findings and reports.

In the OSCE region, international observers under the OSCE/ODIHR must respect a code of conduct. Domestic observer groups are not obliged to abide by this code of conduct. However, they might use it as a basis to develop their own. In some countries, the election authority may be legally required to draw up a code of conduct for observers, but this should not infringe upon their basic rights to observe, and thereby enhance, the electoral process.

THE CODE OF CONDUCT FOR ODIHR INTERNATIONAL ELECTION OBSERVERS

- ✘ Observers shall maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties, candidates, or with reference to any issues in contention in the election process
- ✘ Observers will refrain from making personal or premature comments about their observations to the media or any other interested persons, and will limit any remarks to general information about the nature of their activity as observers
- ✘ Observers will base all conclusions on well documented, factual, and verifiable evidence, and should be willing to fill out statistical survey forms of polling stations visited
- ✘ Observers will participate in post election day debriefings, by fax or telephone if necessary
- ✘ Observers will carry the prescribed identification issued by the host government or election commission, and will identify themselves to any interested authority upon request
- ✘ Observers will not display or wear any partisan symbols, colours or banners
- ✘ Observers will undertake their duties in an unobtrusive manner, and will not interfere with the election process, polling day procedures, or the vote count
- ✘ Observers may wish to bring irregularities to the attention of the local election officials, but they must never give instructions or countermand decisions of the election officials
- ✘ Observers must comply with all national laws and regulations

Other observation principles include:

- ▶ Meeting with as many relevant interlocutors as possible, including a wide range of political parties. Observers should never confine the scope of meetings to either the ruling party or the opposition. Similarly, where multi-party election commissions exist, observers should meet with members from all political tendencies;
- ▶ Never participating in a campaign event, but attending to observe is acceptable;
- ▶ Not engaging in any activity that may create a conflict of interest. This particularly relates to business dealings but may also include a prior or ongoing professional activity that could create a confusion of roles;
- ▶ Making a clear distinction between incidents personally observed and those reported to observers by others;
- ▶ Reporting should be balanced and include positive developments and achievements in the process, as well as any irregularities or violations;
- ▶ Treating sensitive information received in confidence, particularly where allegations of intimidation or violence are involved;
- ▶ Recognizing where mistakes may be made by election officials because of inexperience or unfamiliarity with the law, rather than because of any deliberate intention to compromise the integrity of the process.

G. ACCREDITATION

Domestic and international election observers are usually required to apply for accreditation with the election administration. Issuing accreditation to a large number of observers can be a huge task, and it is incumbent upon a domestic observer group that it comply with the requirements set out in legislation or election administration ordinances. The Administration and Training Unit should ensure that the fully completed required documentation is submitted to the authorities in a timely manner to facilitate the prompt issuance of accreditation/identification documents. Developing a good working relationship with the authorities may ease the process of accreditation.

3

**ANALYSIS
OF LEGISLATION**



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B. FRAMEWORK FOR ANALYSIS OF LEGISLATION 36

C. DEVELOPING AN ELECTION-DISPUTES TABLE 42

- Identify and become fully familiar with all legislation relevant to elections
- Analyse legislation to evaluate the degree to which it provides for democratic elections
- Identify any shortcomings in legislation to pinpoint potential problems during an election and for post-election recommendations for change
- Develop an election-disputes table to determine whether legal redress can be achieved and assist the cataloguing and tracking of legal disputes

A. IMPORTANCE OF LEGAL ANALYSIS

An essential aspect of election observation is analysis of the legal framework to evaluate the degree to which it provides for democratic elections. An analysis of this nature, which should include the constitution and all legislation related to elections, should be undertaken as early as possible by legal experts from the Observation Co-ordination and Analysis Unit. While fundamental issues must be addressed by primary legislation, it is also acceptable for regulations covering administrative procedures to be issued by the Central Election Commission. Regulations should therefore be included in the analysis.

Analysis of the legal framework may result in the formulation of recommendations to promote conformity with international commitments and standards, including human rights standards, or to make the legislation more coherent or effective. When developing recommendations, care should be taken to ensure that they are carefully worded. Clear explanations should be provided as to why the recommendations are made. Recommendations can be used to advocate change and improvement to electoral legislation either before or after an election.

B. FRAMEWORK FOR ANALYSIS OF LEGISLATION

Comprehensive guidelines developed by the OSCE/ODIHR provide a framework for the analysis of electoral legislation.⁹ The guidelines have been developed with a view to uniformity, reliability, consistency, and accuracy in the review of election-related text.¹⁰ A summary is provided below. Each section comprises a statement of guidance and a series of questions to be considered.

Structure of the Legal Framework

The legal framework should be structured so that it is readily accessible to the public, transparent, addresses all the components of an electoral system necessary to ensure democratic elections, and is adopted sufficiently in advance of polling to be implemented.

- ▶▶ Is the legal framework objective, clear, transparent, and accessible to the public?
- ▶▶ Are human rights safeguarded by constitutional protections?
- ▶▶ Have all relevant laws been reviewed, including the constitution; general and specific election legislation; citizenship, political party, media, and public-information legislation; criminal-law provisions and procedures related to election-law violations; and Central Election Commission instructions?

The Electoral System

The chosen electoral system should ensure minimum standards for democratic elections in terms of what institutions are elected, the frequency of elections, and the organization of electoral units.

- ▶▶ Does the electoral system ensure minimum standards for democratic elections?
- ▶▶ Are all seats in at least one chamber of the national legislature subject to democratic elections?
- ▶▶ Are democratic elections held at reasonable intervals?
- ▶▶ Does the legal framework address the manner in which the electoral units are organized and reviewed?
- ▶▶ Is the electoral formula for converting votes into mandates, and the procedure for allocating mandates to individual candidates, clearly stated?
- ▶▶ Does the system treat minority groups fairly and in a non-discriminatory manner?

⁹ *Guidelines for Reviewing a Legal Framework for Elections*, OSCE/ODIHR, Warsaw, 2001, produced in collaboration with the International Institute for Democracy and Electoral Assistance (International IDEA).

¹⁰ When examining a legal framework, the examiner may wish to consult final reports of election observation missions of the OSCE/ODIHR. These reports can be accessed from the OSCE/ODIHR website at <http://www.osce.org/odihr>.

The Right to Elect

The legal framework should ensure that all citizens of the age of majority are guaranteed the right of universal and equal suffrage.

- ▶▶ Are all citizens of the age of majority guaranteed the right of universal and equal suffrage?
- ▶▶ Does the legal framework ensure that suffrage rights are exercised in a non-discriminatory manner on the basis of equal treatment before the law?
- ▶▶ Are there any limitations or restrictions on the right of suffrage, and, if so, are they clearly justified due to exceptional circumstances?

Election Commissions/Election Authorities

The legal framework should require that election commissions/authorities be established and operate in a manner that ensures the independent and impartial administration of elections.

- ▶▶ Does the legal framework require that election commissions be established in an independent and impartial manner?
- ▶▶ Does the legal framework require that election commissions operate in an independent and impartial manner?
- ▶▶ Does the legal framework require transparency in the establishment and operation of election commissions and provide for observers to monitor their work?
- ▶▶ Does the legal framework clearly define the authority and responsibility of each election commission and its relationship to other governmental bodies and executive authorities?
- ▶▶ Does the legal framework provide for adequate opportunity to seek reversal of a decision of an election commission?
- ▶▶ Does the legal framework protect members of election commissions from arbitrary removal?

Voter Registration and Voter Lists

The legal framework should require that voter lists be maintained in a manner that is transparent and accurate, protects the right of eligible citizens to register, and prevents the unlawful or fraudulent registration and removal of persons.

- » Does the registration process provide for accurate and transparent voter lists?
- » Are the requirements for voter registration stated in clear and objective language?
- » Does the law clearly identify what documents are necessary for registration as a voter?
- » Is the procedure for challenging a registration decision stated in clear and objective language?
- » Are deadlines for challenging a registration decision clearly stated?
- » Is a voter protected from the wrongful disclosure of personal data and information?

Political Parties and Candidates

The legal framework should ensure that all political parties and candidates are able to compete in elections on the basis of equal treatment before the law.

- » Are all political parties and candidates ensured equal treatment before the law?
- » Are candidates ensured the right to seek office as either political party or independent candidates?
- » Does the legal framework provide a level playing field for all political parties and candidates?
- » Are the requirements for candidates to be placed on the ballot based on relevant, reasonable, and objective criteria and clearly stated in the law?
- » Are the procedures for candidate registration reasonable and clearly stated in objective language in the law?
- » Does the legal framework ensure judicial review of decisions on candidate registration?
- » Does the law regulate the conduct of political parties and candidates during electoral campaigns and provide for active and open campaigning free from government interference?
- » Does the legal framework protect an elected candidate's mandate from premature termination due to a change in political party affiliation?

Equal Treatment and Access to the Media

The legal framework should ensure that all political parties and candidates are provided with access to the media and equitable and non-discriminatory treatment in media owned or controlled by the state. No unreasonable limitations should be placed on the right of political parties and candidates to freely state their views and opinions during election campaigns.

- ▶ Does the legal framework ensure that all political parties and candidates are provided access to the media and equitable treatment in media owned or controlled by the state?
- ▶ Does the legal framework establish a formula for access and equitable treatment that is fair, understandable, and capable of objective application?
- ▶ Does the legal framework ensure that citizens, candidates, and their supporters are free to state their views and opinions during election campaigns?

Campaign Finance and Expenditures

The legal framework should ensure that all political parties and candidates are treated equally before the law in terms of campaign finances and expenditures.

- ▶ Does the legal framework ensure that all political parties and candidates are treated equally before the law in terms of campaign finances and expenditures?
- ▶ If the legal framework provides for public funding or the use of state resources for campaigns, does it provide for such use on the basis of equal treatment before the law for all political parties and candidates?
- ▶ Are limitations on private funding of campaigns reasonable, clear, and capable of objective application?
- ▶ Does the legal framework require periodic reporting on campaign contributions and expenditures?
- ▶ Does the legal framework provide for public access to reports on campaign contributions and expenditures?

Observers

The legal framework should provide for observers, including domestic and international, and representatives of the media, political parties, and candidates to ensure transparency of all electoral processes.

- » Does the legal framework allow domestic and international observers to observe all aspects of the electoral process?
- » Does the legal framework allow representatives of the media, political parties, and candidates to observe all aspects of the electoral process?
- » Does the legal framework provide clear and objective criteria on the requirements for registration as an observer?
- » Is the legal framework clear as to what statutory authority accredits observers and when?
- » Is the legal framework clear as to the rights of observers and as to when and under what circumstances observer status can be revoked?
- » Does the legal framework strike a balance between the rights of observers and the orderly administration of elections?
- » Are there any legal requirements that could be onerous to observers and serve to hinder legitimate observation?

Balloting Procedures

The legal framework should ensure that secrecy of the vote is guaranteed and that all votes are counted and tabulated equally, fairly, and transparently.

- » Does the legal framework guarantee that votes are cast by secret ballot?
Are there adequate prohibitions against group/proxy voting?
- » Does the legal framework require that voters be adequately identified prior to receiving a ballot?
- » Does the legal framework contain sufficient safeguards to prevent fraudulent and multiple voting?
- » Does the legal framework contain sufficient provisions for the security of all ballots and voting materials before, during, and after voting?
- » Does the legal framework provide alternative methods of voting for specific persons or special categories of persons, and do the procedures regulating such alternative

methods of voting balance the requirements for secrecy of the vote with guarantees for security of the ballot?

- ▶ Does the legal framework prevent a person from using an alternative method of voting and the regular voting process in the same election?

Transparency in Counting and Tabulation of Votes

The legal framework should ensure that all votes are counted and tabulated accurately, fairly, and transparently.

- ▶ Does the legal framework provide observers with reasonable means to observe the vote count and tabulation?
- ▶ Does the legal framework provide for independent verification of all mechanical and computer hardware, software, and other elements in the counting and tabulation processes where methods other than manual counting are used?
- ▶ Does the law require that all tabulation worksheets be available in a format that allows observers to trace the results of each polling station through all levels of aggregation to the final results?
- ▶ Does the law require that tabulations of results contain detailed information on the results of alternative methods of voting, such as mobile voting and voting by mail?
- ▶ Does the law require prompt public posting and publication in print media of detailed results from the polling-station level to the Central Election Commission?
- ▶ Does the law clearly specify the processes for final certification of election results, notification to candidates, and the terms of office for elected candidates?
- ▶ Are all requirements and procedures for a recount of ballots clearly stated?
- ▶ Are all requirements and procedures for a new election clearly stated?

Enforcement of Electoral Rights

The legal framework should provide effective mechanisms and remedies for the enforcement of electoral rights.

- » Does the legal framework provide effective mechanisms and remedies for the enforcement of electoral rights?
- » Are the penalties for infractions reasonable and appropriate?
- » Does the legal framework clearly state who can file complaints for election-law violations and the process for filing complaints?
- » Does the legal framework provide for the right to appeal an election commission decision to a court of law with authority to review and exercise final jurisdiction in the matter?
- » Does the legal framework provide reasonable deadlines for the filing, consideration, and determination of a complaint?

C. DEVELOPING AN ELECTION-DISPUTES TABLE

When analysing electoral legislation, particular attention should be paid to the resolution of election disputes. Such analysis will determine whether legal redress can be achieved and will assist the process of cataloguing and tracking legal disputes. An analysis of this nature will enable an assessment of the role, fairness, and efficiency of the authorities charged with the adjudication of election disputes.

The legal framework for election disputes should clearly identify:

- » All acts (e.g., fraudulent registration of a person) and failures to act (e.g., failure to register a person) that permit the lodging of a complaint;
- » The person(s) or institution(s) likely to be accused in the complaint and other parties that must be given notice of the complaint;
- » The body with competence to adjudicate the complaint;
- » the manner in which the complaint must be lodged with the competent body (e.g., in writing);
- » The time limits for lodging and adjudicating the complaint;
- » The manner and forums for lodging an appeal from an adverse decision on the complaint;
- » The mechanisms for enforcement of any relief granted to the complainant; and
- » The penalties for violation of the law.

Once completed, this analysis can be compiled in a chronological table corresponding with the electoral timetable. This process can identify gaps, duplication, and conflicting provisions in laws and can be useful in formulating recommendations for improvement to a legal framework.

An excerpt from a sample table is provided below. In this case, if a complainant requests an inaccuracy on the voter list to be corrected and chooses to challenge the inaccuracy by utilizing Chapter 30 of the Civil Procedure Code, then he or she will find that there is no obligation to correct the inaccuracy even if proven. If the complainant challenges the inaccuracy by utilizing Article 20 of the Presidential Election Law, then the complainant is able to secure a remedy that requires correction. However, Article 20 of the Presidential Election Law requires the complaint to be made within three days of the posting of the preliminary list of voters, while Chapter 30 of the Civil Procedure Code permits additional time for lodging the complaint. Preparation of the table has therefore identified conflicting time provisions for lodging a complaint. It has also revealed a gap in Chapter 30 of the Civil Procedure Code, as there is no enforcement provision requiring corrective action.

SAMPLE ELECTION-DISPUTES TABLE

Election-Related Violations	Legal Provision Allowing for Complaint	Provision Allowing for Complaint Party Subject to Complaint and Third Party to be Notified	Who Can Complain
Inaccuracies in the list of voters	Article 20 of the Presidential Election Law	Polling-Station Election Commission (PSEC) and notification to any affected third party	The voter or any other party concerned
Inaccuracies in the list of voters	Chapter 30 of the Civil Procedure Code (applies specifically to elections)	Polling-Station Election Commission (PSEC)	The voter or any other party concerned

Manner and Place for Lodging	Deadline for Complaint	Deadline for Consideration of Complaint	Appeal	Provision to Enforce and Penalty
PSEC in writing	Within three days of posting of preliminary list of voters	Three days or immediately if on the day before elections or on election day	District Court	Obligation to correct and potential fine against PSEC member if failure to correct was clearly not justified
District Court under formal rules for court filings	Not later than five days before elections	Three days from the day of filing	Higher-level court	None

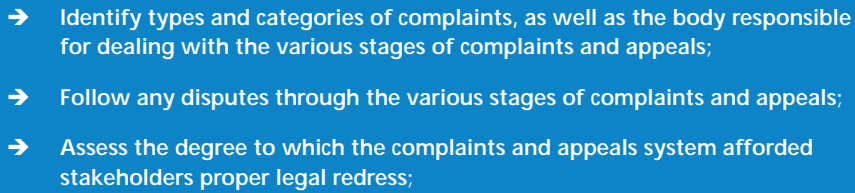
4

**MONITORING
ELECTION
DISPUTES**



A. MONITORING THE RESOLUTION OF DISPUTES 47

B. ANALYSING ELECTION DISPUTES. 50

- 
- Identify types and categories of complaints, as well as the body responsible for dealing with the various stages of complaints and appeals;
 - Follow any disputes through the various stages of complaints and appeals;
 - Assess the degree to which the complaints and appeals system afforded stakeholders proper legal redress;

During elections, disputes can arise involving candidates, parties, citizens, election authorities, media, and state institutions. While reliance on legal mechanisms to resolve disputes can be evidence of growing confidence in the rule of law and the efficiency of the legal process, lack or delay in resolution can reveal a failure in the system to provide redress to legitimate complaints.¹¹

A. MONITORING THE RESOLUTION OF DISPUTES

Legal experts in the Observation and Analysis Unit should try to catalogue and follow each dispute. If only a few disputes are expected, this can be done by carefully cataloguing each dispute manually. If a larger number of disputes are expected, then details of the disputes can be recorded in a computer database. Either way, the system of cataloguing should be similar. The election-disputes table discussed in the previous chapter should help to identify what aspects of the legal process should be followed.

¹¹ For further information about election disputes, see *Resolving Election Disputes in the OSCE Area: Towards a Standard Election Disputes Monitoring System*, OSCE/ODIHR, Warsaw, 2001. This document can be accessed on the OSCE/ODIHR website at <http://www.osce.org/odihr>.

Ideally, written copies of a complaint should be gathered. A copy can usually be obtained from the complainant, the person or institution accused of wrongdoing in the complaint, or the court or election commission where the complaint was filed and can be gathered both by the team at the headquarters and by regional monitors. The information about a complaint should be recorded logically on a dispute-monitoring form and should include:

- » The name of the complainant;
- » The person or institution accused of wrongdoing in the complaint;
- » The name of the adjudicating authority that will hear the complaint;
- » The date the complaint was filed with the respective adjudicating authority;
- » The place in which the dispute occurred;
- » The administrative or electoral district in which it occurred;
- » A summary of the allegation made;
- » Any comments – by observers or by the observation group about the complaint;
- » The date on which any investigation began;
- » The name of the investigating body or person; and
- » The date on which the adjudicating authority will hear the complaint.

Observers should attempt to gather as much information about the complaint while ensuring that they do not attempt to usurp the role of the relevant authorities. To ensure impartiality, they should make every effort to meet with all sides. Observers should exercise care when meeting complainants to ensure that expectations are not unduly raised.

Observers cannot intervene to solve a problem being raised and have no right of adjudication. When meeting with a complainant, observers should establish whether a formal petition has been submitted to the election authorities or whether an appeal has been made to the courts and should ask for relevant documents. If this approach has not been pursued, then the complainant should be encouraged to use the official complaints and appeals process available.

Each case should be given a unique identification number. New information should be recorded as a case progresses through the complaint process. For example, a new form should be completed when initial investigations have finished and the adjudicating authority or prosecuting authority decides to initiate formal legal proceedings on a complaint. The case number allocated should always be quoted so that observers can track progress of legal proceedings on a complaint.

Observers should try to be present in the court or election commission when a complaint is heard, particularly in high-profile cases. Any observer attending a court or election commission when monitoring a complaint must observe the strictest neutrality and abide by a number of basic guidelines:

- ▶ Arrive on time and not disturb proceedings in any way;
- ▶ Exercise care when reporting or commenting on ongoing cases, as they might be *sub judice*; and
- ▶ Refrain from providing testimony during a case.

Observers should record the following information when observing a proceeding before a court or election commission when a complaint is heard:

- ▶ Whether the complainant is able to present evidence to the court or election commission in support of the complaint, either through the submission of written documents or by oral testimony;
- ▶ Whether other interested parties are able to present evidence;
- ▶ Whether the proceeding is conducted in public; open to all interested persons, including the media and members of the general public; and whether any part of the proceeding is conducted in a closed session where observation is not possible;
- ▶ Whether the adjudicating authority appeared to treat everyone fairly, including the complainant, witnesses, and interested parties;
- ▶ Whether, overall, the adjudicating authority appeared to be impartial;
- ▶ Whether the adjudicating authority's decision was consistent with other rulings in similar cases; and
- ▶ Other observations, particularly the comments of the adjudicating authority, that support all conclusions reached by the monitor about the proceeding.

In addition to the above information, when the proceeding is before a court, observers should record:

- ▶ Whether the complainant and interested parties are represented by attorneys;
- ▶ The legal issues raised by the complaint;
- ▶ Specific provisions in the law argued by the complainant and interested parties in support of their respective positions;
- ▶ The extent to which the court appears to follow legal rules of procedure;

- » Time before the court makes a decision; and
- » What information the court gives the parties concerning the right to appeal to a higher court.

The legal experts in the Observation Co-ordination and Analysis Unit should catalogue cases and monitor their progress through the legal system. In addition to the data gathered by regional monitors on the dispute-monitoring forms, the cataloguing system should also include:

- » The legal basis of the complaint: quoting the relevant articles of legislation cited by the complainant;
- » Status: whether the case has been appealed by either side, and to whom, or whether it has been referred to another state institution for further consideration;
- » The final decision adopted by the court or election commission, etc., citing the legal basis of the decision;
- » Enforcement: whether the decision was implemented, when and how it was implemented, and the degree or extent to which it was implemented; and
- » The type or category of complaint assigned by the domestic observer group (see next section).

B. ANALYSING ELECTION DISPUTES

The legal experts in the Observation Co-ordination and Analysis Unit should categorize each complaint. The categories adopted should relate to the categories of election-related violations provided in the relevant legislation. Listed below are examples of categories:

- » Formation of election commissions;
- » Registration of parties/candidates;
- » Registration of voters;
- » Illegal campaigning (by parties);
- » Illegal campaigning (by state institutions);
- » Media coverage of election subjects;
- » Harassment of media outlets/journalists;
- » Obstruction of campaigning (by parties);
- » Obstruction of campaigning (by state institutions);

- ▶▶ Violation of voting rights on election day;
- ▶▶ Violation of the security of the ballot;
- ▶▶ Violations during counting;
- ▶▶ Violations during aggregation/tabulation;
- ▶▶ Accuracy of the final results, as declared.

Creating a database containing this information will enable quantification of the number of disputes made in different categories and how they have been addressed. An example of how this data can be presented is included below. This example lists the tables that should be maintained for each category of complaint and how a single complaint is recorded in one category. Examination of all complaints in all tables will reveal what election-related activity generated the most complaints, where most of the violations occurred, and whether the system addressed complaints in a satisfactory manner. This information will be extremely helpful in assessing whether the system afforded stakeholders proper legal redress. It may also reveal problems with decision-making within the election administration.

TABLES ON COMPLAINTS

Table 1	Complaints Concerning Formation of Election Commissions (EC)
Table 2	Registration of Parties and Candidates (REGPC)
Table 3	Registration of Voters (REGV)
Table 4	Illegal Campaigning by Parties and Candidates (ICPC)
Table 5	Illegal Campaigning by State Institutions (ICSI)
Table 6	Obstruction of Campaigning by Parties and Candidates (OCPC)
Table 7	Obstruction of Campaigning by State Authorities (OCSA)
Table 8	Violation of Voting Rights on Election Day (VED)
Table 9	Violation of Security of the Ballot (SB)
Table 10	Violation During Counting on Election Day (CED)
Table 11	Violation During Aggregation/Tabulation of Votes (ATV)

SAMPLE TABLE ON COMPLAINTS

NO.	DATE	WHERE FILED	COMPLAINANT	AFFECTED ZONE	COMPLAINT SUMMARY	FOLLOW-UP
T1/EC-1	15.8.03	With the Central Election Commission in capital city	Party for Good Government	100	<p><u>Factual Allegation:</u> The Central Election Commission has appointed a member to the Zone Election Commission for Zone 100 who is not a resident of Zone 100, as required by Article 15 of the Election Law.</p> <p><u>Legal Basis of Complaint:</u> Article 15 of the Election Law requires a member of a Zone Election Commission to be a resident of the Zone in order to be on the commission.</p> <p><u>Relief Requested:</u> The Party for Good Government wants the member, John Smith, removed by the Central Election Commission and a person meeting the legal requirements for membership, including residency, to be appointed.</p>	<p>On 17.8.03, monitor Jane Doe attended a meeting of the CEC where this complaint and several others were discussed. The CEC instructed the CEC secretary to fax a letter to ZEC 100 requesting proof of residency for John Smith within three days or he would be removed from the ZEC.</p> <p>On 21.8.03, monitor Robert Jones attended CEC meeting where this complaint was discussed. The CEC had a certified copy of Residency Receipt from Municipality West Town, which had been provided by ZEC 100 and established that John Smith is a resident of Zone 100. The CEC dismissed complaint of Party for Good Government.</p>

5

**ASSESSMENT
OF VOTER
REGISTRATION AND
ELECTION-DISTRICT
BOUNDARIES**



A. IMPORTANCE OF VOTER REGISTRATION 55

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I. MONITORING THE DRAWING OF ELECTION-DISTRICT BOUNDARIES 63

- Assess the quality of the voter registration process
- If necessary, check the accuracy of the voter lists, primarily through the use of surveys
- Assess the impact of any shortcomings in the voter lists on the conduct of an election
- Assess whether election districts have been drawn in a transparent manner to ensure as far as possible that all votes carry the same weight

A. IMPORTANCE OF VOTER REGISTRATION¹²

Voter registration is vital to the public's interest in establishing a government based on the people's will and is also vital to those who seek to gain public office. It is a key element for screening ineligible individuals out of the voting process and for identifying and registering eligible individuals so that they may have the right to vote. In short, voter registration is critical to the integrity of elections.

Voter registration can take many different forms. It can be periodic (e.g., prior to each election), or it can be regular (e.g., updated once a year or even on a rolling/monthly basis). It can also be individually initiated (people need to go to registration centres), state-initiated (officials travel door to door), or state-created/automatic (names are taken from a civil/national identification register). Although a state-created/automatic register may not require the state or individual to actively register either regularly or periodically, all eligible voters should be entitled to check the register and must have the legal right to challenge and amend their entry on it. Voter registration can also be compulsory or voluntary.

¹² This chapter draws on material produced in a publication by the National Democratic Institute for International Affairs (NDI), entitled *Building Confidence in the Voter Registration Process*, published in 2001. For further information about assessing voter registration, domestic observer groups should consult this document, which includes a detailed description of how to conduct voter list surveys.

Accurate voter lists can only be produced if election officials do their job properly, the population responds actively to the display of draft voter lists, and individuals are able to prove their identity and residence. A voter list should include the names, addresses, and details of those legally eligible to vote. If it has too few names, this could indicate that citizens have been denied the right to vote either deliberately or by mistake. If it has too many entries, this provides an opportunity for people to vote illegally on behalf of “phantom voters” on the list.

Given the importance of voter registration, questions concerning the accuracy of voter lists can arise from voters, political parties, and election officials. Sometimes, in an attempt to undermine public confidence in an election, bad-faith allegations are made about the accuracy of the lists. Such allegations, if not investigated and proven inaccurate, can damage the credibility of the election process. Domestic observer groups, due to their knowledge and numbers, can provide the public and the election authorities with verifiable information on the accuracy of voter lists and the quality of the voter registration process.

In some countries or for some elections, voter lists are not required. For example, in some countries, people are entitled to vote by presenting a passport as positive identification. The passport is then stamped to guard against double voting. Inking of fingers can also be used as a safeguard when voter lists are not used or are not sufficiently reliable.

B. EVALUATING THE QUALITY AND ACCURACY OF VOTER LISTS/REGISTRATION

To assess the quality of the voter registration process in general, and the accuracy of voter lists in particular, a domestic observer group should consider several key issues:

- ▶▶ Whether the criteria for voter eligibility meet national constitutional requirements and international standards;
- ▶▶ Whether the process of identifying who is eligible to vote provides a sufficient opportunity for all people to register to vote without discrimination;
- ▶▶ Whether the procedure for identifying who is eligible to vote is reasonable and conducted properly;
- ▶▶ Whether voter lists contain only the names of people who are eligible to vote and that this information is current and accurate;

- ▶ Whether the public, political parties, and civic organizations are provided with sufficient opportunity to scrutinize the voter lists for errors or omissions;
- ▶ Whether sufficient opportunity is provided to the public, political parties, and civic organizations to make claims and objections for names to be added, deleted, or corrected on the voter lists;
- ▶ Whether claims and objections are processed properly and appropriate changes are made to the voter lists;
- ▶ Whether political parties and civic organizations are provided with copies of the preliminary, revised, and final voter lists; and
- ▶ Whether the voter list used at a polling station is identical to the final voter list and whether officials use it properly to permit people to vote.

Should a domestic observer group have serious concerns about the accuracy of voter lists, then it may decide to undertake a detailed investigation in an attempt to quantify suspected inaccuracies. As such an investigation is time-consuming and requires considerable expertise, a domestic observer group should be certain that this is an issue that needs to be addressed before embarking on this task. In making such an assessment, it should be recognized that no country has voter lists that are 100 per cent accurate.

C. COMPARATIVE ANALYSIS OF VOTER LISTS AND POPULATION DATA

A first check on the accuracy of the voter lists can be made by comparing the total size of the electorate with the appropriate number of citizens of voting age. Data on population should be available from the government agency responsible for national statistics, which should regularly update data on population size following each census. Comparing the number of people over 18 with the size of the electorate will provide a broad indication of possible problems with the size of the voter lists. If it appears that the electorate is either far larger or far smaller than it theoretically should be, then further checks will be warranted. Observers should also check for regional variations in any shortcomings to assess whether problems in the lists affect specific communities more than others.

D. VOTER LIST SURVEYS

If it is alleged or suspected that there is a significant level of inaccuracy in the voter lists, or if a comparative analysis of the voter lists and population data raises concerns, then voter list surveys can be undertaken. Based on the statistics from such surveys, it will be possible to draw conclusions about the quality and accuracy of the voter lists.

In cases where it is alleged that a significant number of entries on the lists are false or ineligible, then an “on-list survey” or a “list-to-people survey” should be conducted to quantify whether this allegation is true. The objective of an on-list survey is to identify and then locate a representative sample of people whose names are selected from the voter lists. It is then to establish whether their entry is correct, they are currently resident at the address in question, and that they are eligible to vote.

To conduct an on-list survey, a domestic observer group should first work with a statistician and demographer to draw up a scientifically reliable random sample of individuals from the voter lists. It is both unnecessary and impractical to survey every single voter. Regional monitors should then attempt to locate and interview the individuals selected to establish whether they are resident at the address mentioned on the relevant voter list and whether their other registration details (age, date of birth, etc.) are correct. If an individual is not resident at the address on the relevant list, then the interviewer should attempt to ascertain whether the individual in question is deceased, has moved to another part of the country, emigrated, or never existed. If there is no answer at the address, then, if necessary, the interviewer should return, on at least three different occasions when the person is most likely to be at home. Information obtained from the survey should be recorded on questionnaires, entered into a computer, and analysed. This will provide an indication of the degree to which entries on the voter lists are false or ineligible.

If it is claimed that large numbers of eligible electors have been excluded from the voter lists, then a domestic observer group may wish to conduct an “off-list survey”, also known as a “people-to-list survey”. The purpose of an off-list survey is to establish the degree to which citizens eligible to vote and who have attempted to register do not appear on the lists. As with the on-list survey, it involves regional monitors interviewing a random sample of citizens, this time at home or on the street, to find out their name, address, eligibility to be registered, and whether they have attempted to register. The regional monitors should again record this information on questionnaires and attempt to check the details

provided against the published voter lists to ascertain whether those interviewed were successfully registered. This method will enable an analysis to be made of the number and type of people who have been denied their right to register to vote, in particular whether this has affected members of national minorities.

The regional monitors undertaking either survey should be well trained and be courteous at all times. They must be open and transparent about the organization they represent and why they need the information they are requesting. Care should be taken to ensure that people are not intimidated by the survey process.

Neither type of survey can be conducted before election officials have produced preliminary voter lists. Surveys must be conducted early enough in the overall electoral process to allow sufficient time for action to be taken if deficiencies are identified. Sometimes, a domestic observer group may be able to obtain a copy of the preliminary voter lists from the electoral authorities at the central level. This may be difficult because the electoral authorities may refuse to make the lists available, or it may be available only at the local level. If possible, a domestic observer should try to obtain an electronic copy of the voter lists to facilitate the random selection of names for the on-list survey.

E. COMPUTER TESTS

Computer tests involve the analysis of an electronic copy of the voter lists for errors and trends. Such tests are often conducted by the election authorities or technical consultants. Domestic observer groups, as well as political parties, should have the right to examine the methodology, conduct, and results of such computer tests and conduct computer tests themselves.

A computer test consists of searching all records in the voter lists for those that meet a defined set of criteria. Such a test can identify certain types of errors in the voter lists, including an inaccurate number of records, records with missing data, duplicate records, ineligible records, assignment to wrong constituencies, additions, deletions, and corrections. Computer tests can also be used to compare records from current voter lists with previous voter lists or census data to identify significant discrepancies that may reveal problems with the current lists. The usefulness of such tests, of course, depends upon the credibility of past voter lists and census data.

Competing public interests must be balanced when monitoring voter registration. For example, in countries where personal security might be jeopardized, certain restrictions on the open publication of particular information on the voter lists might be appropriate. In all cases, citizens' right to privacy must be considered, and domestic observer groups must act responsibly with the information they obtain about citizens.

AZERI OBSERVERS DISCOVER SIGNIFICANT LEVEL OF IRREGULARITIES IN VOTER LISTS

Prior to the parliamentary elections in November 2000, the Azeri domestic observer group For the Sake of Civil Society became concerned that there was a significant level of irregularities in the voter lists. As a result, it decided to audit the lists using both on-list and off-list survey techniques.

To do this, it carefully selected 20 of the 100 territorial election districts in the country, trained 40 volunteers, and established an effective reporting system. In each district, the volunteers randomly selected a number of polling districts and, again at random, chose names on the voter list. They then tried to interview those selected to determine whether their entry was accurate. The volunteers also interviewed a representative sample of voters to determine whether they were listed at the correct electoral precinct. Reports were returned to the group's headquarters and analysed by a team of statisticians. From the data received, For the Sake of Civil Society reported that 30 per cent of the entries on the voter lists nationwide contained irregularities.

F. MONITORING PUBLIC-INFORMATION CAMPAIGNS

A domestic observer group may wish to monitor information campaigns run by the authorities to encourage citizens to check their entry on the voter lists or to be registered. This is particularly relevant if there are widespread suspicions that large numbers of eligible voters have been left off the lists; that particular groups of voters, especially from national minorities, have been excluded; or that there are large numbers of multiple entries. A domestic observer group can assess whether the information is provided on time, is accurate, excludes any group of eligible citizens, and is delivered in a way most likely to ensure the highest level of participation. This can be done by:

- ▶ Including the issue in media-monitoring activities (see Chapter 9);
- ▶ Checking the content, quantity, and distribution of information published by the authorities, such as leaflets and posters; and
- ▶ Checking whether information produced by the authorities is available in “minority” languages (if the concern is that minorities have been excluded).

If a domestic observer group has suspicions that voters have been left off the lists or indeed verifies this through an off-list survey, it may wish to provide its own public information to encourage citizens to register and check their entries on the voter lists. If this is the case, the information provided must be accurate and designed to achieve the highest level of public participation. The domestic observer group may wish to target specific groups of voters, such as the young and those from national minorities, who are thought less likely to be listed. Should a domestic observer group involve itself in this activity, it should be mindful that it could be open to accusations of bias from political parties, and it should ensure that any information produced is strictly impartial.

G. MONITORING VOTER REGISTRATION CENTRES

If the law provides for citizens to register at specific registration centres in advance (as opposed to systems that are based on an extract of the civil register or through door-to-door enumeration), then observers may wish to monitor these registration procedures. The methodology used should be similar to that employed in the observation of voting. However, unlike voting, registration of voters usually takes place over a period of weeks and not just days. If a domestic observer group decides to monitor the registration of voters in specific regis-

tration centres, it must decide in advance whether to monitor each centre on every day of registration or to undertake a sample of registration centres. It must also decide whether its teams are to be mobile or static. If it suspects that registration in some centres will be more problematic than in others, a domestic observer group may decide to adopt a mixture of these methods.

Once it has decided how to monitor the process, a domestic observer group should train observers about the registration process and provide them with a simple checklist or report form. For each centre visited each day, observers should record:

- ▶▶ How many people were registered;
- ▶▶ How many people who were eligible were denied their right to register;
- ▶▶ How many people who were ineligible were allowed to register;
- ▶▶ How many people were registered more than once;
- ▶▶ Whether the procedures were followed correctly;
- ▶▶ Whether the centre was easily accessible and opened and closed on time;
- ▶▶ Whether there were sufficient materials; and
- ▶▶ Whether the data was correctly recorded and forwarded to the national registration centre for inclusion on the list.

Report forms should be concise, user-friendly, and clear. Each report should be entered into a database to allow the group to determine whether registration has been successful or not. The information will also provide data on rates of registration and identify problem areas and areas of under-registration.

H. MONITORING VOTER REGISTRATION TRIBUNALS

During an election period, citizens, candidates, or political parties may challenge or object to names on the lists. These disputes are usually adjudicated by a voter registration tribunal, election commission, or court and can be monitored to assess whether the adjudicating officials act impartially, follow the correct procedures consistently, and allow the objector and objectee time to address the tribunal. For this, a domestic observation group can either adapt methodology and tools used to monitor other disputes (i.e., on a case-by-case basis) or can survey a sample of objectors and objectees to evaluate whether the law has been impartially and consistently applied.

I. MONITORING THE DRAWING OF ELECTION-DISTRICT BOUNDARIES

According to OSCE commitments, all votes should carry the same weight to ensure equal representation. This means that each elected representative should represent a similar number of registered electors. For example, in a majority voting system, the size of the electorate should not vary by more than approximately 10 per cent from constituency to constituency. Under the proportional representation system, the size of the electorate may vary, but the number of representatives for each district should be proportional to the size of the electorate. The election law should provide detailed and uniform criteria for the drawing of electoral-district boundaries, specifying considerations such as the number of voting population per district and geographic, administrative, and historical continuity of boundaries. The boundaries should be drawn in a transparent manner, under the principle of political neutrality, ideally by a non-partisan commission of experts. A domestic observer group should assess whether election districts have been drawn in a transparent manner to ensure as far as possible that all votes carry the same weight or whether they have been drawn in a selective, discriminatory, and biased manner.

6

**MONITORING
THE ELECTION
ADMINISTRATION**



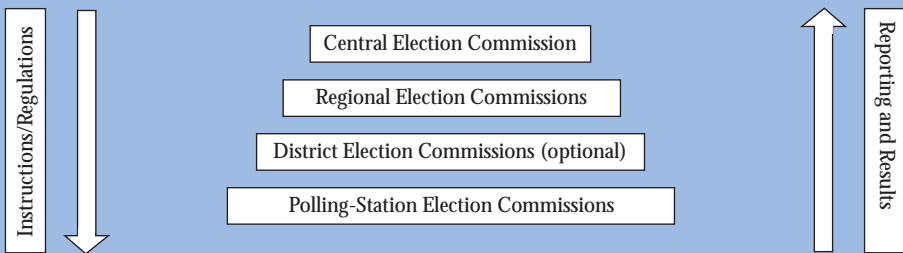
A. STRUCTURE OF THE ELECTION ADMINISTRATION 65

B. EVALUATING THE QUALITY AND ACCURACY OF VOTER LISTS/REGISTRATION 66

- Assess the composition, professionalism, and efficiency of the election administration
- Assess whether the election administration was impartial and transparent in its work
- Establish a good working relationship with election commissions at all levels in order to be able to hold regular meetings and to ensure access to pertinent information

A. STRUCTURE OF THE ELECTION ADMINISTRATION

The body responsible for the administration of an election should retain the confidence of the political contestants and the public. In most cases, elections are supervised by a national election commission, often known as the Central Election Commission (CEC), which has staff or a secretariat. This is usually a permanent body. Working under the CEC are lower-level election commissions usually based on the administrative or electoral districts of the country and polling-station commissions for each voting district. The composition and functions of each layer of the election administration should be clearly laid out in law.



SAMPLE HIERARCHY OF ELECTION ADMINISTRATION

Other state bodies, such as local government, the Ministry of Interior, or the Ministry of Justice, may also be mandated to provide a role during an election. In such a case, these should be monitored in the same way as the election administration.

In general, the Observation Co-ordination and Analysis Unit should observe the work of the CEC, regional monitors should observe the work of regional and, where relevant, district commissions, and observers should observe at the polling-station level.

Domestic observers should try to maintain a professional relationship with the election administration at all levels. Members of the Observation Co-ordination and Analysis Unit and regional monitors should meet with the appropriate election commissions and their staff regularly to inquire how preparations are proceeding. They should also attend formal meetings of the commissions and take note of decisions made. If resources permit, a domestic observer group should try to collect and review all decisions, regulations, and instructions issued by the electoral authorities. Official gazettes should also be checked to see whether regulations and other sub-legal acts are published. Often, such acts and regulations must be published to enter into force.

B. KEY ISSUES TO BE ASSESSED

The key election administration issues that should be investigated/assessed include:

→ **Formation of election commissions:** The method for appointing election commissions and defining their functions should be laid out in the election legislation. Election commissions should be established in an independent and impartial manner. In most cases, this should mean that they include pluralist representation from a balance of political parties. In countries where there is sufficient confidence in the electoral process, commissions could also be drawn from respected, neutral, and experienced individuals, including members of the judiciary. Members should not be subject to arbitrary removal.

→ **Independence and impartiality of election commissions:** Election commissions should not only be established in an independent and impartial manner, but should also act in an independent and impartial manner. They should not be subject to undue interference or intimidation. Election commissions must ensure the rights of freedom of expression, association, and assembly free from discrimination and in accordance with the

due process of law. Any partial treatment or abuse of authority may pose serious threats to an election's legitimacy.

→ **Transparency:** Election commissions should operate in an open and transparent manner. All aspects of their work should be open to scrutiny. Transparency can be achieved in a number of ways, including party representation on commissions, providing access for media and observers, and by the prompt publication of decisions. However, observers are not always afforded direct access to commission meetings.

→ **Recruitment and training:** All members and staff of election commissions should receive appropriate, standardized training sufficiently in advance of an election to enable them to be fully informed about the conduct of their duties. As far as possible, election commissions should contain representative proportions of women and members of national minorities.

→ **Resources:** The election administration should be provided with a transparent, sufficient, and independent budget. It should also be provided with enough time to organize a credible election and the necessary finance and materials at the appropriate time.

The following table highlights the main activities that may be within the authority of the various levels of election administration bodies.

MONITORING THE ELECTION ADMINISTRATION

Level of Election Administration	Administrative Functions & Activities
Central Election Commission	<ul style="list-style-type: none"> ⊖ Impartial and fair implementation of the law ⊖ Accreditation of observers ⊖ Delimitation of constituency/district boundaries ⊖ Production of administrative regulations ⊖ Resolution of disputes ⊖ Code of conduct for parties ⊖ Code of conduct for the media ⊖ Supervision of registration of voters ⊖ Registration of political parties/candidates ⊖ Oversight of election budget ⊖ Oversight of production of election materials ⊖ Distribution of election materials ⊖ Supervision of training of election officials and lower election commissions ⊖ Results tabulation, allocation, and publication ⊖ Monitoring election expenses of parties/candidates
Regional/District Election Commissions	<ul style="list-style-type: none"> ⊖ Implementing regulations and law fairly and impartially ⊖ Resolution of disputes ⊖ Registration of parties/candidates ⊖ Monitoring compliance with codes of conduct ⊖ Supervision of voter registration/corrections to voter lists ⊖ Appointment/approval of lower election commissions ⊖ Training/supervision of training of lower commissions ⊖ Distribution of election materials ⊖ Supervision of lower election commissions ⊖ Tabulation of results ⊖ Declaration of results ⊖ Collection and storage of election materials
Polling-Station Commissions	<ul style="list-style-type: none"> ⊖ Implementing regulations and law fairly and impartially ⊖ Receiving election materials ⊖ Supervision of voting ⊖ Counting ⊖ Return of results and materials

Key questions to be considered by domestic observer groups include:

- ▶▶ Are election commissions treating all participants equally and impartially?
- ▶▶ Do any decisions made by an election commission raise questions about impartiality?
- ▶▶ Can election commissions act free from unwarranted or illegal interference by state authorities and political parties?
- ▶▶ Are election commissions' preparations for the poll sufficient to ensure the integrity of the process?
- ▶▶ Are election commissions transparent in their decision-making?
- ▶▶ Are election commissions respecting the provisions of the law?
- ▶▶ Are the decisions of election commissions open to fair and reasonable appeal?
- ▶▶ Are election commissions respecting the timelines in the law?
- ▶▶ Have any election commissions been pressured or intimidated?
- ▶▶ Do election commissions generally enjoy the confidence of all stakeholders? If not, are the criticisms justified?
- ▶▶ Are national minorities and women adequately represented on election commissions?

7

**MONITORING
CANDIDATE &
POLITICAL PARTY
REGISTRATION**



A. REGISTRATION OF POLITICAL PARTIES 71

B. REGISTRATION OF POLITICAL CONTESTANTS 72

C. REGISTRATION OF WOMEN AND NATIONAL MINORITIES 73

- Closely follow the registration of election contestants to assess whether all candidates and parties are provided with an equal and reasonable opportunity to compete in an election
- Obtain copies of all documentation relating to denial of registration or appeals against denial
- Assess whether any particular groups in society experience discrimination in the registration process

Paragraph 7 of the Copenhagen Document guarantees the right of citizens to seek political or public office individually or as representatives of political parties or organizations, without discrimination. All political forces and movements should be able to nominate candidates on equal terms and without discrimination. Any arbitrary or discriminatory application of the law for the purpose of undermining certain political forces runs contrary to the spirit of the OSCE commitments for democratic elections.

A. REGISTRATION OF POLITICAL PARTIES

The electoral legislation will identify how and when political parties and candidates may be nominated. A separate law (e.g., a law on political parties) may define how a group may register as a party. Any relevant law on the registration of political parties should therefore be analysed and included in the election-disputes table (see Chapter 4). A domestic observer group should assess whether applicants fulfilled the criteria for registration and whether the rules were followed fairly and impartially. Most importantly, a domestic observer group should determine whether the process met international standards and commitments on freedom of association.

B. REGISTRATION OF POLITICAL CONTESTANTS

The election law will require parties and candidates to formally register as contestants in an election. The assessment of the legislative framework should indicate whether this section of the law meets international and domestic standards. Registration requirements should be clear and predictable and should not involve potentially discriminatory demands such as excessive deposits or an unreasonable number of names on registration petitions. A right of appeal must exist for the refusal of registration to a party or candidate.

During this critical part of the electoral process, a domestic observer group should catalogue the parties and candidates registered and denied registration. In particular, it should assess whether applicants fulfilled the criteria for registration and whether the election commission implemented the law fairly and consistently. Improper implementation could include cases where candidates are not given adequate notice of deadlines or the procedures required to apply for candidacy or cases where the requirements (such as collecting signatures or paying a deposit) are unreasonably arduous or discriminatory.

The process of verifying signatures can sometimes become arbitrary and subject to controversy because the procedures are not adequately formalized to ensure their equal and consistent application. In addition, laws are not always sufficiently clear in defining the grounds on which a petition must be rejected. Controversies can arise as to how to interpret the law in terms of what constitutes a technical deficiency in a petition that can be remedied and what constitutes a substantive deficiency for the petition to be rejected.

Observers should pay particular attention to parties and candidates whose applications have been rejected and those that it is alleged have been accepted in violation of the law. Any disputes arising should be carefully catalogued and monitored during adjudication by a higher election authority or by the courts (whichever is applicable under the law). Reasonable restrictions on persons wishing to become candidates may include a residency requirement in the country for a certain period of time, minimum support among voters, or the fact of having reached a higher age than the minimum voting age.

Some registration procedures, particularly in countries that have some or all representatives elected at a sub-national level, may require candidates and parties to register with the regional or district electoral authority instead of, or in addition to, registering with the central electoral authority. In these circumstances, the regional monitors should monitor and

report on party and candidate registration. They should be provided with a briefing on the application and appeals processes and a means for reporting back to the central office.

Guidelines for assessing procedures for the registration of candidates and political parties include:

- ▶ Attempt to be present during the verification of petitions for the nomination of political parties and candidates;
- ▶ Attempt to review a number of petitions that have already been checked to establish whether they appear to have undergone the same level of scrutiny by the electoral authorities;
- ▶ Establish whether formal guidelines or instructions on signature verification have been issued;
- ▶ Establish the reasoning for any rejections, verify if the reasoning is justified, and compare rejected petitions to those accepted from another candidate/party;
- ▶ Establish whether an election commission voted on any decisions to accept/reject candidates/parties. Request a copy of the minutes for any meeting where this occurred to find out how commission members voted;
- ▶ Establish how and when accepted and rejected political parties and candidates were notified of the decision; and
- ▶ If petitions were rejected, establish whether the party or candidate appealed against the decision and, if so, where they appealed and what the outcome of the appeal was.

C. REGISTRATION OF WOMEN AND NATIONAL MINORITIES

A domestic observer group may wish to monitor how many women and members of national minorities are nominated by parties and are registered by the election authorities. States in the OSCE region have committed themselves to a number of international human rights standards protecting the rights of women and minorities to participate in the governance of their country (see Chapter 1). By monitoring this process, a domestic observer group can provide the public with a record of the number of women and national minority candidates that were nominated and successfully registered and an analysis of any discrimination that has taken place.

MONITORING THE ELECTION CAMPAIGN



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- Meet regularly with contestants to check whether they face any obstacles to their freedom of expression, association, and assembly
- Follow up any complaints with all relevant officials
- Attend campaign rallies and follow campaign discourse to check for inflammatory speech
- Check that state resources are not unfairly used to the benefit of parties in power
- Monitor and assess any evidence of intimidation, harassment, or interference in campaign activities
- Establish a structure to enable monitors to report on all campaign activities and especially any specific incidents of concern

Fundamental freedoms are essential to the democratic character of the campaign period, and all political participants should enjoy the freedom of association and should be able to freely express their campaign messages and assemble with their constituents free from intimidation or hindrance. Citizens should have the right to express their political convictions freely. Transparency is also an important element in ensuring that all participants benefit from campaign rules that are equally applied and carried out in an open and inclusive manner. The degree to which a campaign period is fair in ensuring a level playing field for all participants is often a reliable barometer in assessing the election process as a whole. At a minimum, it should ensure that voters are exposed to basic information about all contestants in the election and the substance of their political platform.

The purpose of pre-election-day monitoring is to assess whether there is a level playing field for all participants and to determine whether citizens' freedoms of expression, assembly, association, and movement are upheld. Normally, such freedoms are enshrined in the constitution of a country and specifically protected during an election period by election legislation. These rights are contained in the OSCE commitments and international human rights standards and must be safeguarded at all times in law and practice.

Pre-election-day monitoring should be done at the central level by members of the Observation Co-ordination and Analysis Unit and at the regional level by the regional monitors. As a domestic observer group's "eyes and ears", regional monitors should provide comprehensive and verifiable information about all aspects of the pre-polling-day environment. They should therefore be well briefed, have good lines of communication, and be familiar with the reporting structure for the pre-election period.

During a pre-election period, regional monitors should follow campaign developments by meeting regularly with political parties, candidates, and relevant election and government officials and by attending campaign rallies/meetings. They may also make contact with security personnel, local media, other non-governmental organizations, candidate/party supporters, and members of the public. By submitting regular weekly reports, specific incident reports, and case-by-case rally/meeting reports, regional monitors will enable the central office to compile a clear picture of the campaign throughout the country.

Observers may not directly witness all that they report. In these circumstances, it is essential that they verify allegations and report accurately. In contrast to a criminal case, where verification of evidence would require proof beyond a reasonable doubt, election observers may be able to secure the same account of events from multiple and credible sources to conclude that the evidence is overwhelming. Observers should always make clear whether their reports reflect events they themselves have witnessed or events that have been reported to them by others. If the latter is the case, they should assess whether the source is credible and reliable.

A. MEETINGS WITH POLITICAL PARTIES AND CANDIDATES

Members of the Observation Co-ordination and Analysis Unit and the regional monitors should meet with the major political parties, including those represented in parliament and others not represented in parliament but that have significant support, to gather information about their campaign activities and to listen to any issues they may wish to raise. If a political party makes a specific allegation, then regional monitors should attempt to verify the allegation from other sources. If a party has lodged a complaint to a court or the election commission, then observers should ask for any written copies and follow the guidance for monitoring disputes. When meeting with political parties, observers should remember that parties and their supporters may have an agenda of their own: to gather support and

sympathy for their position. In a presidential election, the Observation Co-ordination and Analysis Unit should meet with all leading candidates. In parliamentary and local elections, regional monitors should try to meet with a wide range of candidates from across the political spectrum.

B. MEETINGS WITH THE MEDIA

Members of the Observation Co-ordination and Analysis Unit should deal with media at the national level as described in Chapter 9. Regional monitors should meet with media at the local level to gain a full picture of their ownership, editorial line, and audience and to receive reports of any harassment or restrictions they experience. Meetings with local media will also provide an opportunity to cross-check other allegations and to assess the attitude of journalists and editors towards the contestants, the election administration, and state bodies involved in the election process. Regional monitors should avoid making any comment about the electoral process to the media unless specifically authorized to do so by the central office.

C. MEETINGS WITH PUBLIC OFFICIALS

Members of the Observation Co-ordination and Analysis Unit and regional monitors should meet with public officials to gather information useful to the observation programme. As with all meetings, observers should decide exactly what they need to ask before the meeting rather than waste a public official's time.

During the election period, it is possible that observers will receive complaints and allegations about the activities of public officials. It may be alleged, for example, that an official has illegally obstructed a candidate or party from campaigning, or that they have actively promoted a particular candidate or party. Such allegations are difficult to verify but are serious and must be investigated carefully, as they are breaches of international commitments on elections, usually breaches of domestic law, and indicate an inappropriate use of incumbency.

Formal allegations about the conduct of public officials may also be made to a prosecutor, the police, a court, or an election commission. In such situations, observers should follow the dispute process and report accordingly. In other situations, witnesses may be unwilling

to come forward, and victims of the actions or omissions of an official may believe that they will not receive justice and redress. Although observers should encourage victims of such actions or omissions to pursue all legal means at their disposal, they cannot force them to do so. In these situations, the challenge for observers is to know how best to attempt to verify allegations and when to give the accused party the opportunity to give their side of the story. Any decision to confront the accused party should be taken in consultation with the central office. In any meeting with the accused party, observers must ensure that they protect their sources of information and themselves.

D. MONITORING CAMPAIGN EVENTS

At the central level, the Observation Co-ordination and Analysis Unit should maintain a schedule of activities of the parties and candidates. At the lower level, this should be done by the regional monitors, who should send copies of the schedule to the central office. This will enable observers to report on the number of campaign rallies and meetings held by each contestant and help both the Observation Co-ordination and Analysis Unit and regional monitors to plan their activities. Observers should complete a report for each campaign event attended. A standard format should be developed that is user-friendly and includes the following information:

- ▶▶ Name of the party/candidate holding the rally/meeting/event;
- ▶▶ Time (start and end), date, and location of the event;
- ▶▶ Names of the speakers and their positions, e.g., leader of party, candidate on the list, etc;
- ▶▶ Approximate number of people attending the event;
- ▶▶ Whether the meeting/event was disrupted and, if so, by whom;
- ▶▶ Whether coercion was used to ensure attendance;
- ▶▶ Space for the observer to write down the main themes of the speeches and any comments; and
- ▶▶ Whether the speakers used language likely to incite violence or espouse the use of violence against other parties/candidates/supporters.

If observers consider that rhetoric used at a campaign event might be inflammatory or provoke campaign violence, they should record the exact words used by the speaker. If speakers incite violence, then the regional monitor should report their concerns to the headquarters immediately.

Observers should also report any instances where campaign meetings, rallies, or other events are not allowed to take place. If the authorities have refused permission for an event, observers should seek to determine the reasons and assess whether they are reasonable.

E. MONITORING THE CONDUCT OF SECURITY FORCES

Throughout the campaign and voting process, security forces have a duty both to prevent intimidation of voters and candidates by others and to act impartially. Intimidation can have an insidious effect on candidates and voters alike, particularly when perpetrated by security forces. While intimidation may be difficult to quantify, widespread trends in intimidation, particularly by security forces, are likely to be apparent.

Observers should carefully note and assess any detentions or arrests that may be related to the elections. Detentions or arrests of political activists during an election period are very serious developments and may signal that the electoral process is not in line with international standards.

F. MONITORING CAMPAIGN EXPENDITURE AND THE SOURCES AND SIZE OF DONATIONS

Issues surrounding campaign finance and expenditure are of increasing concern within and outside the OSCE region. Citizens want to know who is providing financial support to their political parties and candidates, how much support is being given, and how this money is being spent. Domestic observer groups are therefore increasingly likely to conclude that there is a need to scrutinize campaign expenditure and sources of donations. Reports produced can be a catalyst for change in the law to improve transparency and accountability.

Monitoring issues surrounding campaign finance and expenditure is notoriously difficult. Even when election legislation provides for a state institution or election commission to monitor campaign donations and expenditure, the institution often finds this difficult. Total expenditure by political parties and candidates and that of supporters (so-called third-party expenditure) is not always accounted for, and the sources of party or candidate donations do not always welcome scrutiny from/by the public or state institutions.

Domestic observer groups should be aware of the difficulties and even potential danger in monitoring this aspect of the electoral process. In particular, they do not have the investigative powers available to a state institution.

Election legislation may provide for political parties and candidates to account for their expenditure. Where this is the case, it is commonly required that information about the source of the contribution (or the object of the expenditure) and the amount and date of the transaction be declared. Political parties and candidates may also be required to use a specific election-campaign bank account. If election legislation includes these requirements, then adherence to the legislation should be monitored by observers. In addition, observers should attempt to determine whether financial reports are complete, accurate, and issued according to the prescribed deadlines. Observers should also evaluate whether political parties and candidates are treated equally and the degree to which the law is administered in a timely manner.

If there are legal limits on campaign spending, observers should assess whether the limits are reasonable and whether candidates and parties are permitted sufficient expenditures to run an effective campaign. Observers should seek the views of parties and candidates on this issue.

If election legislation does not require political parties and candidates to account for expenditure, then domestic observers can monitor the product of expenditure that is public, such as television, radio, press, billboard advertising, and the mass production of party literature and posters, in an attempt to determine its value. The cost of campaign events, in particular larger public rallies, can also be estimated.

Monitoring paid advertising in the media can be relatively simple and effective. The duration of an advertisement and time it is broadcast, or the size and position of an advertisement in the print media, can be measured and the cost calculated (see Chapter 9). These calculations can be used to estimate the overall level of expenditure by a party or candidate. Monitoring expenditure on posters and party publicity materials is more difficult, as the only reasonably reliable source of information is the printer who produced the materials – the party or candidate should be asked for the information in the first instance. Since election legislation often requires that any printed materials include the name of the political party or candidate and name of the printer, a domestic observer can request to be provided with details of the cost and quantity of the print run. Should this information be with-

held, the only other option is to attempt to count the number of posters that are visible and estimate the cost from the quality of the printed material. This is time-consuming and not particularly precise, but it provides some indication of the levels of expenditure.

ROMANIAN DOMESTIC OBSERVERS SCRUTINIZE CAMPAIGN FINANCE

In November 1999, a public-opinion survey in Romania revealed alarming levels of public mistrust over the sources and use of campaign funds by political parties. In an attempt to open up the issue to greater public scrutiny and debate, a local domestic observer group called the Pro Democracy Association (PDA) commissioned a team of experts to look into the issue during the local elections in 2000.

The PDA surveyed each political party and their advertising agents to gather information about the amount and type of expenditure and the sources of donations. They quantified the amount of time and space bought in various media outlets and calculated the costs. Some parties were more willing to co-operate with the PDA's team than others, particularly over the sources of donations. From the information gathered, the PDA was able to identify aspects of campaign expenditure that were insufficiently regulated. Using the report published as a result of this exercise, the PDA lobbied for change to campaign-finance laws to ensure greater transparency and accountability.

Monitoring the source of campaign donations is even more difficult since the only reliable sources of information are political parties and candidates themselves. If election legislation does not require political parties and candidates to divulge the source of donations, it is unlikely that they will voluntarily make this information available. In this situation, it might be concluded that any unverified information gathered would be purely speculative. However, the PDA's experience shows that a request to parties and candidates for details of sources can be worth making.

G. MONITORING THE MISUSE OF STATE RESOURCES¹³

In some countries, election legislation provides for the use of state resources by political contestants. This can include direct state subsidies, the use of specified state resources, access to government-owned buildings for public meetings, and access to government-owned media outlets. Resources may be distributed equally to contestants, in which case observers should assess whether they are made available on an equal basis to all parties and candidates. Resources may also be made available on the basis of certain criteria. Should this be the case, observers should assess:

- ▶▶ Whether the criteria are objective and clearly defined;
- ▶▶ Whether the criteria are reasonable and fair;
- ▶▶ Whether the criteria are administered similarly for all contestants; and
- ▶▶ Whether the resources are distributed in amounts and at times that do not unfairly disadvantage any contestants.

It is the responsibility of governing parties not to abuse state resources, both human and material. In a democracy, it is a generally accepted rule that government property belongs to all inhabitants of the country on an equal basis. Thus, government vehicles, office space, and telecommunications should not be used for partisan purposes unless equitable access is provided to other contestants. Moreover, public officials directly involved in administering elections (e.g., election commissioners, polling-station officials, judges, and security forces) have a special obligation to maintain impartiality. Other public employees who are not directly involved in election administration should not use their authority or influence to interfere with the election process.

The use of patronage, public works, and similar programmes for electoral advantage represents another area of potentially improper government action. While it is difficult to identify and measure the effects of such programmes, it is worth considering whether they are providing benefits in the name of a political party or candidate rather than in the name of the government. It is also possible to document if such projects are awarded or started just prior to an election period.

In some countries, governing parties and candidates, at either a national or sub-national level, have been observed misusing public resources to their benefit. If a code of conduct or guidelines for the conduct of government ministers and officials exists, then observers

¹³ A Sri Lankan organization, the Institute of Human Rights, conducted an excellent monitoring of the misuse of state resources by the governing parties during the 2001 presidential elections through a project entitled "The Programme for Protection of Public Property". The organization's findings were cited by the European Union Observation Mission in its report on the election, which can be found at http://www.europa.eu.int/comm/external_relations/sri_lanka/election_report/index.htm.

should monitor adherence to these documents. In the absence of such guidance, observers must be carefully trained on the legality and use of state resources during an election period.

Monitoring the use of state resources requires particular caution. Observers should record all verified instances of misuse with care in a detailed and accurate manner. The cost of such abused resources may also be calculated.

A further issue to be considered is the pressuring of public employees or military personnel to vote for a certain political party or candidate – usually connected to the incumbent authorities. This activity has been observed in a number of countries and raises questions of human rights abuse. Allegations of illegal campaigning in the workplace, pressure and intimidation, the linking of political affiliation to employment, and “vote buying” through the provision of free goods and services (whether or not they are sourced from public funds) should be thoroughly investigated.

H. CONFLICT PREVENTION AND MONITORING ELECTION VIOLENCE

Elections should provide competing interests with the opportunity to contest for political power without resorting to violence. Unfortunately, however, violence sometimes occurs. In such cases, the responsibility for managing and resolving this conflict lies with the relevant authorities. Domestic observers should monitor this closely.

Domestic observer groups can also play a positive role in averting election violence. One idea that has been successfully attempted by domestic observer groups to prevent the outbreak of conflict is to bring political parties/candidates together to secure agreement on a code of conduct governing behaviour during an election period. Although codes of this nature are non-enforceable, adherence can be monitored and verified breaches publicly condemned. Fortunately, election-related violence is less common in the OSCE region than in some other parts of the world.

MONTENEGRIN DOMESTIC OBSERVERS BROKER CODE OF CONDUCT AMONG POLITICAL PARTIES

In the run-up to the 2001 local elections in Montenegro, many commentators and citizens became increasingly concerned that the election campaign could descend into violence. In an effort to prevent the outbreak of conflict, the domestic observer group Citizens for Democratic Transition (CDT) invited the political parties in Montenegro to meet to discuss how violence could be avoided.

CDT proposed that the parties sign a code of conduct that outlined a framework of good practice, including the avoidance of language or other means that could inspire violence or hatred. After some debate, all political parties, except one, agreed to sign. The code of conduct also provided benchmarks to which election observers could monitor adherence. Although breaches of the code of conduct occurred and were publicized by CDT, violence did not materialize.

The methodology for monitoring election-related violence is similar to that used in monitoring election disputes. Regional monitors or members of the Observation Co-ordination and Analysis Unit who witness violence should complete a “critical-incident form”, which identifies:

- » The location of the event, including the electoral or administrative district;
- » The victim(s);
- » The perpetrator(s) (if known);
- » The date the incident happened;
- » The nature of the incident, including reports from witnesses and the police;
- » Whether the incident is under investigation by the police; and
- » Classification of the incident.

Observers must act impartially in gathering this information and interview a wide selection of witnesses, including the police when appropriate.

The classification of an incident is critical in analysing the nature and frequency of election-related violence. One way to do this is to identify major and minor incidents. Major

incidents would include murder, attempted murder, rape, attempted rape, grievous bodily harm, rioting, arson, robbery, and assault. Minor incidents would include threats, damage to property, and incitement.¹⁴ Observers should follow up any such incidents to ascertain whether the perpetrators are brought to justice. They should not interfere in any official investigation.

The prevalence of violence during an election may be a determinant in a domestic observer group issuing a very negative statement on an election. With this in mind, all incidents should be clearly documented and verified. Furthermore, care should be taken to discriminate between criminal and other illegal activities that are related to, and a result of, elections/political patronage and those that are not.

I. MONITORING OTHER ISSUES

Although election observation generally focuses on the process of elections rather than on political issues, this is not necessarily the case in all situations. Some domestic observer groups may choose to adopt a focus that, while non-partisan, concentrates on aspects of the election that might be regarded as political. For example, domestic observer groups may wish to monitor such politically related issues as:

- ▶ Whether campaigning is issue-based or personality-based;
- ▶ Which issues received most attention in the campaign;
- ▶ To what extent candidates and parties engaged in negative campaigning;
- ▶ How issues of particular concern to women, minorities, disabled persons, or other sectors of society were covered by the candidates;
- ▶ Whether religious issues played a role in the campaign;
- ▶ If the election was in a post-conflict society, whether the election process reinforced divisions or helped bring the country together; and
- ▶ Whether there were notable regional differences in the campaign.

Even if domestic observer groups intend to focus primarily on process, it is still important for them to understand the political context and issues driving the campaign. For example, it is helpful for them to observe the extent to which voters understand, and are informed about, election issues and whether voters perceive clear differences among the po-

¹⁴ For further information on this methodology, readers may wish to visit the website of the Centre for Monitoring Election Violence (CMEV) in Sri Lanka at <http://www.cpalanka.org>.

sitions of the parties and the candidates. It is also useful to assess how candidates and parties are conducting their campaigns, e.g., through rallies, debates, door-to-door canvassing, electronic means, etc., and whether any of these is especially effective. If voter interest in an election is low, it may mean that the voters do not consider the election important, that candidates are not getting a clear message across, or that voters do not have confidence that their participation in the electoral process can make a difference.

9

MEDIA MONITORING



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- Develop a media-monitoring programme that involves a qualitative and quantitative assessment of media coverage to determine whether contestants are afforded reasonable and fair access to media during the campaign period
- Pay particular attention to assessing the degree to which state/publicly owned media afford contestants fair and impartial coverage
- Monitor whether media outlets experience any restrictions or harassment

A. IMPORTANCE OF MEDIA MONITORING¹⁵

The right to freedom of expression is enshrined in Article 19 of the UN Universal Declaration of Human Rights. In the OSCE region, participating States have reaffirmed in Paragraph 9 of the Copenhagen Document that “everyone will have the right to freedom of expression including the right to communication”. In addition, Paragraph 7 requires that political parties and candidates must have unimpeded access to the media on a non-discriminatory basis. No democracy can thrive unless citizens have the information they need to make the choices required of them in selecting their representatives in government. Similarly, the media cannot thrive if confronted with undue state interference in its broadcasts or if journalists suffer from censorship or intimidation.

In countries with long traditions of democracy and a free press, some safeguards have evolved in regard of freedom of speech, press, and information, all of which make it easier for citizens to be well informed. Likewise, in established democracies, professional journalists often have developed self-imposed rules of conduct that protect against bias. In newer democracies, many of these traditions and standards are less developed. It is therefore even more important for citizens in these countries to demand media professionalism and objectivity and to monitor media coverage of political parties, candidates, government officials, and public affairs.

¹⁵ This chapter draws on material produced in a publication by the National Democratic Institute for International Affairs (NDI) entitled *Monitoring the Media in Transition Elections: An NDI Step-by Step Handbook*, written by Robert Norris and published in 2002. For further information about media monitoring, domestic observer groups should consult this document, which includes a detailed description of how to implement a media-monitoring programme. In addition, Article XIX has also produced two useful guides to media monitoring and standards: *Guidelines for Election Broadcasting in Transitional Democracies*, 1994; and *Election Reporting – a practical guide to media monitoring*, 1998. Information about these publications can be found on the Article XIX website at <http://www.article19.org>.

Both electronic and print media play a significant role in influencing public opinion. Equal opportunity to access the media, particularly television, is vital in a fair election. Monitoring both the media's coverage of an election and the freedom of the media during an election period in a systematic and objective manner is therefore a critical component in election observation.

Observers should recognize, however, that there may be sharply different requirements governing the conduct of the private media and the public media. The public media, whether print or electronic, always have a responsibility to provide balanced and impartial information to the electorate. This is usually enshrined in law and/or in the charters of public broadcasters or print media. Even if this is not the case, balanced treatment by public media would be required by OSCE commitments (Copenhagen Document, Paragraph 7) stating that candidates should compete on the basis of equal treatment by the authorities and that public policy should work to ensure campaigning is conducted in a fair atmosphere. Domestic law may also include provisions regulating how private broadcasters must behave during an election campaign, intended to ensure balanced coverage of parties and candidates. Occasionally, such regulations may also cover the print media. In the absence of such laws and regulations, however, there are no international standards requiring private media to adopt balanced editorial positions. For example, it could be expected that a political party newspaper would serve as a platform for that political party, and it would not be unreasonable for other private newspapers to endorse specific candidates or parties.

B. PURPOSE OF MEDIA MONITORING

The purpose of non-partisan media monitoring is to:

- ▶▶ Provide an independent and credible assessment of the freedom of the media during an election campaign;
- ▶▶ Provide an independent and credible assessment of the fairness of media access and coverage during an election campaign;
- ▶▶ Raise public awareness of harassment and intimidation of the media;
- ▶▶ Encourage journalists, editors, and owners to observe the standards of balanced reporting and avoid hate speech and other items that incite violence and hatred; and
- ▶▶ Advocate positive changes to the media laws and regulations so that they meet international standards.

C. ASSESSMENT OF THE LEGAL FRAMEWORK GOVERNING THE MEDIA

Before beginning media monitoring, it is necessary to review the relevant laws and regulations that govern media conduct. This should be done by media monitors working together with legal advisors in the Observation Co-ordination and Analysis Unit. The review should include relevant constitutional provisions, legislation, and pertinent rulings from regulatory bodies. It would also be useful to meet with any relevant regulatory bodies, such as a media standards authority, licensing authority, frequency licensing authority, etc. These bodies have significant regulatory authority over the media, and it is important that their functions and role are clearly understood. It may also be helpful to include a description of their role in the election-disputes table (see Chapters 3 and 4) and to record media disputes as a separate category in the table.

D. MONITORING BROADCAST AND PRINT MEDIA

At a minimum, media monitoring should start at least one month before election day and end once the final results have been announced. Ideally, it should start as early as possible, preferably when the election administration begins preparing for elections, and continue until those elected have taken up office. Monitoring efforts could also continue after an election to establish a more permanent presence in civil society to work against future media bias and advocate media freedoms.

The first stage in monitoring the media is to choose which media outlets should be monitored. This should be determined by:

- ▶▶ Available financial and personnel resources of the observation group;
- ▶▶ Experience and knowledge of media coverage in past elections;
- ▶▶ The type of election to be held: presidential, parliamentary, or local;
- ▶▶ The structure and ownership of the media nationwide;
- ▶▶ Available data on the number and type of readers, listeners, and viewers for various media outlets;
- ▶▶ Available public-opinion data on the relative importance of different forms of media;
- ▶▶ Information on television and radio ownership; and
- ▶▶ Media outlets that cater to national minorities.

The key factor in deciding which media outlets to monitor should be where voters get the information they use to make choices at the ballot box. The most widely watched television programmes, the most listened-to radio shows, and the most consulted newspapers should therefore be the targets.

In the OSCE region, television tends to have more of an impact than radio or newspapers. As a priority, the main state/publicly owned station broadcasting news and information must be monitored, as it has a responsibility to be impartial. Other television stations that are able to transmit to all or a very large section of the population should also be monitored. Where possible, regional television stations and media outlets in areas that have been designated as “hot spots” should also be included. In addition, consideration should be given to monitoring media outlets that cater to minority communities, particularly if there are concerns regarding the rights of national minorities or if prominent candidates/parties are from minority communities.

Media monitoring measures the quantity and quality of coverage dedicated to candidates, political parties, the election administration, and other “relevant subjects”. The relevant subjects chosen for monitoring should be those with the most influence on voters. A domestic observer group may also be interested in key themes or issues that will have an impact on the electorate. Coverage of these themes and issues may be significant in gauging the level of bias and self-censorship. Also, it is important to assess the level of political debate where the views of parties or candidates are directly challenged by their political opponents. Relevant subjects and themes (those marked with an asterisk are to be selected if relevant) include:

- » The president;
- » The presidential spokesperson or office;
- » The government;
- » The prime minister;
- » Key government ministers (all if they are seeking election);
- » Political party leaders;
- » Political parties and senior candidates;
- » Regional governors;*
- » Elected mayors;*
- » Heads of local executive bodies;*
- » Boycotting parties* (if any);

- ▶ Inflammatory language and hate speech;*
- ▶ National minorities and minority-language coverage;*
- ▶ “Campaign silence” period;*
- ▶ Restrictions on coverage of public-opinion polls;*
- ▶ Paid party and candidate advertising;*
- ▶ Voter-education campaigns;*
- ▶ The domestic observer group.*

Media monitors should take care to distinguish between “free airtime”, often provided for in legislation, and other reporting. In this regard, monitors should assess:

- ▶ Whether provisions for free airtime were respected;
- ▶ Whether the “conditions” of the broadcast were equal for all subjects (for instance, transmission time);
- ▶ Whether they were broadcast at a time and in a format likely to be watched by viewers; and
- ▶ Whether free-airtime broadcasts contributed to citizens’ understanding of available choices.

The methodology used in media monitoring involves assessing the quantitative and qualitative coverage provided in news programmes/reports to chosen subjects and themes to see whether it correlates with the basic rules of balanced and fair journalism.

Quantitative analysis of the print media involves measuring space given to the chosen subjects and themes in square centimetres. Quantitative monitoring of the broadcast media involves measuring with a stopwatch the total amount of time a certain subject appears on camera or is heard on the radio, as well as when he/she is mentioned or quoted by someone else.

When measuring and recording the amount of time dedicated to particular subjects, monitors can measure additional factors that can highlight more subtle problems with the way different subjects are portrayed. For example, some parties’ candidates or representatives may always appear on the air and speak in their own voices, while others may be quoted or their statements paraphrased or summarized by an announcer. For broadcast news programmes, time measurements can be subdivided as follows:

- ▶▶ Total time in seconds of a story on a relevant subject (described above);
- ▶▶ Total time in seconds that the candidate/party appears and speaks on the screen;
- ▶▶ Time in seconds that the image of the candidate or party representative appears without speaking (these measurements will illustrate how different subjects are portrayed when compared with the previous measurements);
- ▶▶ Time in seconds that the voice of the candidate or party representative is heard, even if there is no film or photograph; and
- ▶▶ Order of the placement of the news item in the broadcast.

Qualitative analysis involves assessing the tone of coverage, specifically whether a subject or issue is portrayed positively, negatively, or neutrally. It also involves an assessment of the accuracy of coverage and any attempts to manipulate. Examples of inaccuracy and manipulation could include:

- ▶▶ The use of opinion polls to favour one party or candidate over others;
- ▶▶ The omission of news stories that would positively or negatively affect opinions about candidates or parties;
- ▶▶ The presentation of a story as fact when no evidence is given;
- ▶▶ The reporting by a journalist of his or her opinion or the opinion of partisan or private interests as news;
- ▶▶ The use of expressions, comments, or descriptions that appear sarcastic, unsubstantiated, unprofessional, or insulting;
- ▶▶ The deliberate use of camera angles, for example, to make crowds at party or candidate rallies appear larger or smaller than reality; and
- ▶▶ The use of photos or sound effects to promote, diminish, or ridicule political contestants.

In addition to news programmes, candidate debates, talk shows, and current-affairs programmes may also be included in media monitoring. Analysis of candidate debates should aim to assess whether each candidate was treated fairly under the agreed rules and whether those “rules of debate” were themselves reasonable. As the purpose of talk shows and current-affairs programmes is to provide viewers and listeners with insight and knowledge of current issues, they will not necessarily provide a balanced view within a single programme, but they should do so over a series. In programmes of this nature, the use of inflammatory language and hate speech should be carefully monitored.

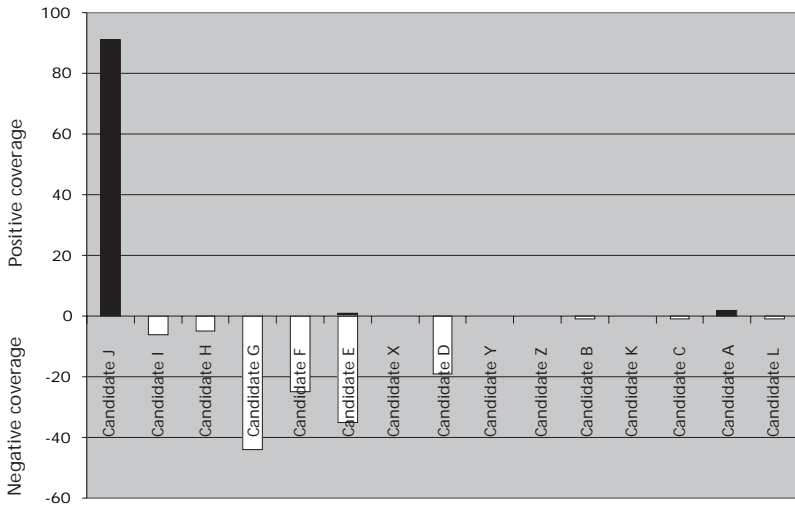
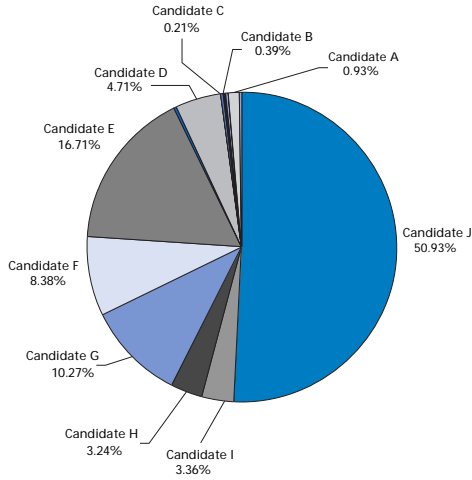
In the print media, a difference should be drawn between editorials, opinion leaders, and letters, on the one hand, and news coverage, on the other. Analysis of the former can usefully highlight the bias of the paper (number of editorials and letters in favour of a specific party or candidate and opposed to others), whereas general news coverage should still aim to be impartial.

Coverage of government activities during an election period presents a difficult problem. While media outlets should give citizens relevant information about important government activities, such coverage naturally gives the ruling party or coalition a distinct advantage in reaching voters with their message. In assessing the coverage of the government, care should be taken to differentiate between “public-service announcements” and “policy announcements” used by incumbents to advocate their re-election. “Public-service announcements” may be necessary for perfectly legitimate reasons of good government, e.g., the release of official statistics. In contrast, “policy announcements” are used to influence public opinion in favour of the governing party or coalition during an election period.

Quantitative and qualitative data should be entered on specially designed monitoring forms and then transferred to a computer database, where it can be transformed into easy-to-read graphic presentations, such as bar charts and pie charts. All recorded data, tapes, and newspapers should be stored in archives for any future checks in case the results are questioned.

If undertaken systematically and presented credibly, quantitative and qualitative analysis can provide compelling evidence of whether media outlets are attempting to provide balanced coverage by offering access to all subjects to present their views. An example of the charts generated by quantitative and qualitative monitoring of news programmes is provided below. This particular example shows highly partisan coverage by a state TV channel in favour of an incumbent president.

Proportion of coverage provided to candidates over a six-week period on state-owned TV.



Tone of coverage provided to candidates over a six-week period by state-owned TV.

E. MONITORING PAID POLITICAL ADVERTISING AND VOTER EDUCATION

Monitoring paid political advertising can be useful but time-consuming. It requires constant monitoring of the electronic media, as advertisements may be placed at any time during the day (if the law permits). Analysis will reveal the content of the advertisements, who the main targets of attack are, whether inflammatory language or hate speech is used, and what the key messages of the various candidates or parties are. It will also provide reliable information about the quantity of advertising purchased, from which estimates can be made of the amount spent (see section on monitoring campaign finance).

A domestic observer group may decide to monitor voter-education and public-information campaigns if it fears that awareness of the electoral process and/or the role and function of the body to be elected is poor. It may also conclude that it is important if there are problems with voter lists or concerns about low levels of participation. Monitoring voter-education and public-information campaigns will also provide useful knowledge about the level of information that is made available to national minorities, whether this information is provided in minority languages, and whether it includes any element of bias.

F. MONITORING INTIMIDATION OF THE MEDIA AND JOURNALISTS

A domestic observer group should develop contacts and meet regularly with journalists and representatives of media organizations to explain how media monitoring is conducted, to develop an understanding of the structure and ownership of media in the country, and to find out about any pressure or harassment that is being experienced.

Typical forms of harassment, to encourage self-censorship, range from violence or direct political repression to more indirect forms of harassment, such as unjustified tax inspections; licensing disputes; and the disruption of supplies to, and distribution of, newspapers. A domestic observer group should ensure that any allegations of harassment are verified and accurately recorded. Each case should be carefully documented and followed. It is possible that allegations of harassment may result in media organizations or journalists making a legal complaint. In this case, the dispute should be followed in the same way as all other election disputes (see Chapter 4).

10

OBSERVATION OF VOTING AND COUNTING



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- Decide on the scale and nature of the observation to be conducted
- Ensure observers are trained in election procedures, reporting formats, and the code of conduct
- Ensure that full logistical and methodological support is provided to observers at all levels
- Establish a coherent reporting structure
- Ensure a timely return and analysis of report forms

Almost every established domestic observer group has attempted to observe voting and counting, often with great success. However, the mobilization of thousands of volunteer polling-station observers can absorb a huge amount of human resources both nationally and regionally, sometimes at the expense of other observation activities. It is therefore essential that a domestic observer group is clear about what is to be observed on election day and how best to observe it.

The following questions should be considered as early as possible, preferably during the needs assessment:

- ▶▶ Should observers be deployed to every polling station or to a random sample of polling stations?
- ▶▶ Should observers be “static”, observing voting and counting in one polling station all day?
- ▶▶ Should observers be “mobile”, observing voting in a number of polling stations?
- ▶▶ Should static observers be deployed in all polling stations in “hot spots”?
- ▶▶ Should the aim be to observe and record the results in every polling station?
- ▶▶ Should the aim be to observe and record the results in a random sample of polling stations?
- ▶▶ What human and financial resources are available?
- ▶▶ What is the right balance of resources between long-term observation prior to polling day and recruiting and training observers for polling day?

A. OBSERVATION OF VOTING AND COUNTING

Ideally, observers should work in teams of two when observing voting and counting, both for reasons of security and because two observers working together are able to check and compare their observations with each other. However, it may be that, for reasons of resources, a domestic observer group decides that it will deploy observers individually.

Observers should be fully prepared before undertaking their monitoring duties. In particular, they should attend a training programme, be aware of the election law and additional rules and regulations, and understand how to complete and return the observation report forms prepared by the domestic observer group. It is essential that they agree to abide by the code of conduct. They should also be familiar with the area in which they are observing and be aware of the location of polling stations and count centres.

If observers are posted to a single polling station, they should remain at the station throughout the voting process and the counting process if it takes place at the polling station. If observers are part of mobile teams, they should spend at least thirty minutes in every polling station visited. It is quality, not quantity, of observation that counts! At the completion of the count in a polling station, observers should attempt to obtain a copy of the result protocol and accompany the results, ballot papers, and other voting materials to the tabulation centre.

Observers should maintain strict impartiality at all times and at no time express any bias or preference in relation to political parties, candidates, or the authorities or with reference to any issues connected to the election. They should also not wear or display any partisan symbols or colours. Observers should undertake their duties in an unobtrusive manner and not interfere with any aspect of the electoral process. If they notice any irregularity, they may bring it to the attention of the polling-station officials, but they must never give instructions or countermand decisions of the officials. All conclusions should be based on well-documented, factual, and verifiable evidence.

Observers should be courteous at all times while conducting their duties and remember that they are representing the domestic observer group responsible for organizing the observation programme. When entering a polling station, they should ensure that they introduce themselves to the chair/president of the station and other polling-station officials. In addition to speaking to polling-station officials, observers should also try to speak to any

observers present representing parties or candidates; international observers, if present; and voters themselves to assess their confidence in the process and listen to any reports of irregularities. All opinions should be considered as long as their credibility is assured. Observers should remember that some persons may try to manipulate information for their own purposes and should therefore use their judgement to ascertain a balanced assessment of a situation. It is a good idea to speak to a cross section of people from each group wherever possible.

When observing the voting and counting processes, the following issues should be considered:

→ ***Polling-station environment:***

- Is the polling station easy to find?
- Is access to the polling station difficult?
- Is there any sign of campaign materials or campaign activity in, on, or around the polling station?
- Is there any evidence of intimidation, bribery, or a disturbance?
- Are any unauthorized persons present in the polling station?
- Are security personnel behaving in an appropriate manner?
- Are voters being offered any inducements to vote in a particular manner?

→ ***Election officials:***

- Do polling-station officials appear to be well trained and familiar with the voting and counting procedures?
- Do officials appear to be free to talk about their duties?
- Do they perform their duties impartially?
- Are all appointed members present, or have any been prevented from serving on the polling-station commission?

→ ***Materials:***

- Are there sufficient polling materials?
- Have polling materials been securely stored between delivery and the opening of the polling station?
- Are the ballot boxes located in full view of polling-station officials?
- Are ballot papers easy to use? How many ballot papers were initially received by the polling station?

→ *Voter list:*

- What is the total number of voters on the voter list, and how many voters have actually voted? (This will give some idea of the turnout trends.)
- Does it appear that large numbers of eligible voters have been omitted from the voter list?
- Does it appear that there are too many names on the voter list?
- Do all voters appear to be residents in the electoral area?

→ *Voting procedures:*

- Is the secrecy of the ballot ensured?
- Are voters required to show identification before being allowed to vote?
- Is the distribution of ballot papers to voters efficient and secure?
- Do ballot papers bear an official stamp specific to the polling station and/or the signature of a polling-station official(s)?
- Are those eligible to vote allowed to do so?
- Are any persons ineligible to vote allowed to do so?
- Are voters voting illegally outside the polling booths?
- Is “family” voting (more than one person in the booth) permitted?
- Are voters given more ballot papers than they are entitled to?
- Is there any evidence of ballot-box stuffing?
- Do voters appear to be aware of voting procedures?
- Are voters who require assistance helped in the appropriate manner?
- Are there excessive delays in administering the process?
- Is the process well managed by polling-station officials?
- Are agents or proxies of parties or candidates present allowed to observe voting and counting as prescribed by law?
- Are agents or proxies experiencing intimidation or harassment?
- Are agents or proxies attempting or actually interfering in the election process or attempting or actually inducing or intimidating voters to vote for a specific party or candidate?

Particular attention should be paid to **special voting procedures**, which include early voting, mobile voting, and voting by soldiers, prisoners, and hospital patients:

- Is early voting sufficiently regulated, secure, and transparent?
- Is use of the mobile ballot box properly regulated?
- If a supplementary voter list for sick and elderly voters voting at home is in use, is there an unusually high number of names on this list?

- Has sufficient campaign material been provided to soldiers, prisoners, and hospital patients in order for them to make an informed choice?
- Have special voter registration arrangements been provided for soldiers, prisoners, or hospital patients?
- Have adequate provisions been made for soldiers, prisoners, or hospital patients to vote by secret ballot, free from intimidation?
- Are soldiers required to vote in front of their officers?
- Are officers instructing soldiers how to vote?

→ ***Counting procedures:***

- Is the vote count conducted in a transparent manner?
- Are observers, agents, and proxies of parties and candidates able to witness all aspects of the count?
- How does the number of registered voters recorded as having voted compare with the number of ballots actually cast?
- Are the ballots counted in an orderly and secure manner?
- Are unused ballots secured, cancelled, or destroyed after being counted?
- Do election officials make any marks or notations on ballot papers?
- Are invalid ballot papers properly and consistently adjudicated and segregated from the other ballot papers?
- Does the number of invalid ballot papers seem inordinately high?
- Are complaints handled satisfactorily?
- Are any agents or party proxies attempting to interfere or actually interfering with the counting process?
- Are any unauthorized persons present, and, if so, what role do they play in the process?

→ ***Results completion and transportation:***

- Are the result protocols correctly completed at the end of the count and signed by all authorized persons?
- Are observers and party/candidate proxies and agents able to obtain copies of the result protocols at the end of the count?
- Are the results publicly announced and a copy of the result protocol publicly displayed?
- Is the transport of protocols, ballot papers, and voting materials to the superior election commission transparent and secure?
- Are these election materials transported directly to the location of the superior election commission or are they redirected to another place?

Previous experience of observing voting and counting, combined with an analysis of election-day procedures, should enable a domestic observer group to determine which aspects of the voting and counting processes require particular attention. Past experience might show, for example, that multiple voting has been a significant problem in certain places or that election materials have been arriving late at polling stations.

These requirements should be reflected in the report forms developed for observers to complete when monitoring voting and counting. Most importantly, report forms should be clear, concise, and easy to use. Long checklists that have large numbers of open-ended questions take a long time to enter into a computer and are very difficult to analyse. They may also result in an overload of paper once the forms are returned, as well as an overload of the communications system. In developing the report forms, the designers must remember that they should be easily understood by observers. In view of this, it would be advisable prior to election day to test the forms on a number of observers to see how easy they are to comprehend and complete.

A report form should provide questions that require “yes” or “no” answers and additional questions that quantify problems if they occur. An example of this approach is shown below:

**Example 1:
Quantitative
questions**

Did you see anyone vote more than once?

YES

NO

If YES, how many times did you see this happen?

(In figures only)

Where possible, open-ended questions like “How did the election commission deal with people who were not on the voter lists?” should be avoided. Large amounts of text are very difficult to analyse, particularly when there are thousands of report forms to read. If open-ended questions are to be used, then observers should be given a number of predetermined answers rather than solely relying on their written comments. An example of this is shown on the next page:

**Example 2:
Pre-coded
questions**

Why did the polling station not open on time? *[please tick appropriate answer(s)]*

- Election materials not present? Threat to the security of the polling station?
- Election Commission not quorate? Election Commission could not access building?
- Other (please write in)? _____

A third type of question that may be useful is to ask observers to give a judgement on a problem by selecting a statement that best reflects what they have observed. An example of this type of question can be seen below. This can be particularly useful in making an overall assessment of a polling station. In general, form designers should avoid an odd number of statements or asking for an assessment on a three- or five-point scale, as experience shows that observers will tend to opt for the middle point of the scale.

**Example 3:
Four-point-
scale
questions**

How would you rate the overall conduct of voting in this polling station?

[please circle the answer that best represents your opinion]

- | | | | |
|---------------|-------------------------------|--------------------------|-----------------------|
| No violations | Some insignificant violations | A few serious violations | Many major violations |
|---------------|-------------------------------|--------------------------|-----------------------|

During training, it should be emphasized that it is essential that observers complete report forms clearly and return them to the appointed person or place before going home.

If a domestic observer group is particularly ambitious, a more complex system of reporting can be developed to provide additional information. For example, separate forms could be used for the opening of a polling station, observation of voting in the morning, observation of voting in the afternoon, and for the count. If this approach is taken, then a domestic observer group must be sure that it has the capacity to deal with the increased number of report forms and data to be processed.

Information from the report forms should be entered quickly and precisely into a computer database by a team of trained personnel under supervision of a data analyst. If a domestic observer group does not have the capacity to design its own analytical software, a good social scientist or statistician should be consulted. Ideally, the data analyst and the report-form designer should work together to ensure that the maximum amount of information can be gained from the minimum number of questions on the report forms.

A domestic observer group may also decide to provide its observers with complaint forms. These can be used by citizens and observers to lodge official complaints with the polling-station staff. Observers should send copies of any complaints lodged to the central office so that any action taken can be monitored. Alternatively, observers can provide details of serious irregularities during local debriefings. This will enable information about the type, frequency, and location of significant problems to be compiled.

The information from local debriefings, analysis of complaint forms, and observation of voting and counting forms should be provided in time for the preliminary statement, which ideally should be issued within 48 hours of election day. In some circumstances, it may not be possible or practical for the data-entry team to enter data for every polling station observed in time for the preliminary statement. Under these circumstances, a representative sample of observer reports should be analysed for the preliminary statement and the complete set analysed for the final report.

B. PARALLEL VOTE TABULATION¹⁶

The purpose of a parallel vote tabulation (PVT) is to provide political parties, candidates, and the public with credible information to help assess the legitimacy of the results. An early decision on whether to embark on a PVT is vital because its organization will have an impact on the deployment of observers around the country.

Although there may be an attraction to organizing the collection of all polling-station results, in practice, the enormous demand on personnel and communications systems may be prohibitive. Should this be the case, a scientifically designed random sample of polling stations can be highly accurate and, if properly designed, provide a domestic observer group with credible predictions of the overall results.

¹⁶ For more information on parallel vote tabulation, see *The Quick Count and Election Observation. An NDI Guide for Civic Organizations and Political Parties*, published by the National Democratic Institute for International Affairs (NDI) in 2002.

A domestic observer group should consult a competent social scientist, statistician, or public-opinion polling organization when determining the size and design of the random sample. Experience shows that where there is little demographic data and the population is quite diverse, the tendency is to use a relatively large sample, such as 10 per cent of polling stations. Where the opposite is true, a smaller sample can be used and provide sufficiently credible and accurate results for national elections. If municipal elections or elections based largely on constituencies using a majoritarian voting system are being observed, then particular care should be given to sample size and design at a constituency or district level because local nuances will need to be taken into account.

To prepare a computer program and choose the polling stations to be included in the random sample, a PVT design team will need accurate information about the number, location, and size of electorate in all polling stations. Results from the polling stations selected for the PVT should be accurately recorded by observers on a simple single-sheet report form.

If legislation does not provide domestic observers with the right to observe counting of votes in polling stations, then a domestic observer group may ask its observers to record the polling-station results from copies of the results displayed outside the polling stations. Alternatively, it may be possible to obtain copies of the results from members of the polling-station commission or political party/candidate proxies present in the polling station during the count.

A domestic observer group may find it useful to test its reporting/communication systems in advance of conducting the actual PVT. This can provide confidence in the methodology and demonstrate the group's capacity to mount a credible PVT and thereby deter election fraud. As the timing of the release of the results of a PVT is critical, a domestic observer group should decide in advance when this should happen.

SERBIAN DOMESTIC OBSERVERS CONDUCT PARALLEL VOTE TABULATION IN HOSTILE CONDITIONS

Between 1997 and 2000, CeSID, a Serbian NGO, was prevented by the authorities from observing elections in Serbia. In view of this situation, CeSID decided to organize a parallel vote tabulation during the federal elections in September 2000 by placing volunteers outside polling stations to access party agents and results as they were publicly posted after the count.

Following a raid on their headquarters and subsequent raids on regional offices by police in the weeks prior to polling day, and with the safety of their volunteers at issue, CeSID decided that preparations for the parallel vote tabulation would have to be undertaken discreetly. A complex but extremely secure method of communication via phone and Internet was established with backup servers. Final instructions and forms were only delivered shortly before polling day.

Despite attempts to undermine its work, CeSID managed to release results from just over 1,096 polling stations by 4:30 of the morning after polling had taken place. These results predicted a victory for Koštunica and contradicted the results issued by the Federal Election Commission showing that Milošević was ahead and that a second round would be required. The Serbian public did not accept the Federal Commission's results, and the Commission subsequently announced a second set of results with Koštunica winning the presidency.

11

**MONITORING
TABULATION,
TRANSMISSION,
AND DECLARATION
OF RESULTS**



A. IMPORTANCE OF MONITORING THE TABULATION OF RESULTS 111

B. MONITORING THE TRANSMISSION OF RESULTS BY COMPUTER 112

C. MONITORING POST-ELECTION-DAY DEVELOPMENTS 112

- Ensure familiarity with the mechanism for the tabulation and transmission of results
- Establish a system to monitor the tabulation and transmission of results at all levels
- Carefully monitor post-election-day developments, in particular any legal challenges to the outcome of an election

A. IMPORTANCE OF MONITORING THE TABULATION OF RESULTS

The tabulation and transmission of results can be especially prone to mistakes and manipulation. A domestic observer group should therefore carefully and systematically monitor these elements of the electoral process. Indeed, the very presence of observers during the tabulation and transmission of results can be a deterrent against manipulation.

Some states publish turnout data during election day, often using computer systems to record the information. A domestic observer group should seek to gain copies of this data to verify at a later time whether any dramatic sudden rises in turnout took place and whether the turnout data is in line with the data on the polling-station result protocols.

The results of a polling-station count are normally transmitted to a regional election commission, where the regional results are aggregated and transmitted to the Central Election Commission at the national level. A domestic observer group should make sure that it fully understands the manner for transporting and aggregating the results. It should maintain a presence at each vote-tabulation level, deploying specially trained teams in a shift system. Where possible, results should be accompanied from one level to another.

Observers should try to obtain copies of the official tabulated results sheets or protocols from each level of the tabulation process. If this is not possible, they should record details of the results on specially prepared tally sheets for each level as they are declared. These results should be checked against results collected by observers from polling stations and can also be compared with results obtained by party/candidate observers and any other local or international observers. Observers should also report on whether the procedures laid down in the regulations for tabulation and transmission are followed and should be witness to any recount.

B. MONITORING THE TRANSMISSION OF RESULTS BY COMPUTER

In some countries, the preliminary results are transmitted by e-mail to the Central Election Commission. Observers should attempt to monitor this process. Ideally, the results of each polling station will be read out by an election official and confirmed by the person entering the data into the computer. In some countries, a copy of the data on the computer is then printed out and signed as a receipt. In such circumstances, observers should request a copy of this receipt and check the results from their own tally sheets with those entered on the computer. A domestic observer group may also wish to request that the computer software used for the transmission of results be made available so that it can be checked in advance of polling by a computer expert.

C. MONITORING POST-ELECTION-DAY DEVELOPMENTS

The days following an election can be tense and filled with uncertainty caused by delays in the release of election results, incomplete information about election results, unresolved challenges pending in the complaint system, or rumours about what will happen after the results are announced. A domestic observer group should therefore carefully monitor post-election-day developments, including the installation of elected representatives to office.

Where possible, a domestic observer group should undertake a detailed verification of the final results published by the electoral authorities. The results should be published in a set period of time after election day, as outlined in election legislation. Any undue delay or discrepancies concerning the aggregation, verification, and the announcement of the final results should be noted and investigated.

The verification of results by a domestic observer group can serve to enhance public confidence in the outcome of an election or call into question the results if serious anomalies are discovered.

In most OSCE countries, the law envisages a period within which parties and candidates can challenge the outcome of an election. These disputes should be carefully monitored using the methodology outlined in Chapter 4, as they are always the most contentious. Domestic observer groups should monitor the progress of a case in court and not rely on information from the media or litigants.

In the post-election period, observers should watch for any indications of problems with the process, such as missed deadlines, irregular decision-making procedures, delay in investigating allegations of irregularities, reduction in transparency afforded to observers or political parties, etc. They should also investigate any reprisals or threats of reprisals directed at citizens for having participated in an election or for having voted for a particular electoral contestant, and they should watch for any indications that elements of the media are preparing the public for a fraudulent result.

A domestic observer group should be prepared to investigate any problems that appear to indicate a systematic pattern of intentional manipulation or that are likely to materially affect the outcome of an election. This may involve appointing special teams to investigate specific issues of concern. A domestic observer group should also be ready to meet with political parties, other elements within civil society, and voters to listen to any concerns they may have, receive any evidence of fraud, or seek any additional information that may be required.

12

**REPORTING
AND
RECOMMENDATIONS**



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- Establish a reporting structure that enables the targeting of key issues and the transmission of pertinent information within the observer group in a timely manner
- Establish report formats, encompassing weekly reports, incident reports, campaign-event reports, and election-day reports
- Ensure that statements and reports are accurate, professionally produced, and distributed to relevant organizations and individuals

A. IMPORTANCE OF REPORTING

Reporting is an essential aspect of election observation. It provides a public record of what has been observed and serves as a reference for use at future elections. In order to be able to report publicly, it will be necessary for regular internal reports to be produced and analysed. This will require careful organization and the development of reporting systems.

A domestic observer group should decide whether it intends to release public reports in advance of an election or only report after election day. Pre-election-day reporting enables a group to comment constructively on the process as it unfolds either at a suitable moment or on a regular basis. Many domestic observer groups follow this approach. However, others prefer to leave their judgement on the process until the election is over. Whichever method is used, a domestic observer group should aim to produce a preliminary statement and final report after the election. These will be its definitive assessment of the electoral process.

Before the conduct of an observation programme, consideration should be given to a range of possible findings. Brainstorming should be done well in advance to determine how possible situations might be reported. A variety of scenarios should be identified, along with the relative likelihood of each outcome. By thinking about these issues at the beginning of a monitoring exercise, and by periodically reviewing strategy and tactics, a domestic observer group will be better prepared to effectively use the information collected.

B. REPORTING BY REGIONAL MONITORS

Regional monitors should be required to prepare regular reports on the pre-election-day environment. In addition to critical-incident and campaign-event forms, they should also produce a regular summary report, at least on a weekly basis. The format for this report should be laid down in advance to ensure a standard reporting mechanism. The report should describe what has happened in the period in question. Each section should have a predetermined headline. The format could include:

- **General Political Summary:** a short summary of the political situation in the region for the week highlighting any specific events or issues;
- **Election Administration:** update on what the election authorities are doing – whether they are on schedule – preparations for polling day, data on number of polling stations, and any issues of concern;
- **Election Disputes:** in addition to specific dispute reports, the regional monitor should use this section to list and keep track of the disputes filed and any reaction to them in their region;
- **Voter Education:** what is being produced by whom, on what topics, and what effect it is having;
- **The Political Campaign:** what the parties/candidates have been doing, what meetings they have held, whether they face any obstruction or intimidation, any issues of concern they have raised, and reaction to the campaign from the public;
- **The Media:** how the regional media are reporting the election campaign, whether they

are providing reasonable access to the contestants; whether the coverage is balanced; and how the parties, candidates, and public have reacted to the coverage provided;

→ **State Administration:** whether public institutions are neutral in the campaign, any reports of state organizations obstructing campaigns or providing preferential treatment to parties/candidates and their supporters, and whether public bodies are staying within the law;

→ **Voter Intimidation/Conflict:** whether there have been any incidents of intimidation of voters by the parties or others (specific examples should be cited), whether there is any indication that conflict might occur and, if so, whether anything is being done to prevent it, such conflicts, and whether there have been examples of conflict/violence;

→ **Participation of Women:** whether women have suffered direct or indirect discrimination in the electoral process or raised specific issues of concern, whether they are participating in the process in large numbers;

→ **Participation of National Minorities:** if the area has a national minority community, whether they have been given unimpeded access to the process, whether they are participating, and whether particular issues of concern to them have been discussed;

→ **Other issues of note.**

The report should be concise, clearly written, and factual. It should avoid speculation and should report what has been observed and what has been reported to the monitor, carefully distinguishing between the two. If an allegation has been made, the monitor should indicate whether a further source has verified or substantiated the allegation. The reports should be communicated securely to a specific person in the Observation Co-ordination and Analysis Unit in the central office who should be responsible for reading, collating, cataloguing, and summarizing. If there are issues that need further inquiry, this person should be the main point of contact. If possible, the regional monitors should travel to the central office for regular briefings. In some cases, it may be helpful to circulate the summary of reports back to the monitors so that they have an idea about events around the country and can identify patterns of behaviour.

C. INCIDENT REPORTS

The central office must be made aware of any election-related incidents of concern as soon as possible. As far as possible, information should be concise, clear, and verifiable. Monitors should be given a format for the submission of incident reports, which should be brief and include the following self-explanatory headings:

- ▶▶ Detailed account of the incident;
- ▶▶ Planned follow-up by monitors;
- ▶▶ Requested follow-up by the central office.

D. STATEMENTS

As mentioned earlier, a domestic observer group may wish to issue interim reports or statements during the election period. While comment of this nature can be constructive, a group must be aware that this may leave it open to pressure. Credible and well-researched reports will provide the public with vital information about the quality of the electoral process and can deter further electoral malpractice or violence.

The most important public comment issued by a domestic observer group is likely to be immediately after the election when interest both locally and nationally is at its highest. This statement, which is “preliminary” because it is issued before all aspects of the electoral process (e.g., complaints and appeals) have been completed, should provide an analysis of all aspects of the process that have been observed. The preliminary statement may be followed by another statement if additional concerns arise or new information comes to light after it has been issued.

The statement should take into account three main elements:

1. Assessment of the main elements of the election:

- Background;
- Legislative framework;
- Election administration;
- Pre-election environment, including election campaign and media;
- Election complaints and appeals;
- Election day;
- Post-election environment, including tabulation and results.

2. Noteworthy incidents:

- Details of any specific incidents that caused significant concern, especially instances of election-related violence.

3. Conclusion – overall assessment of the election:

- Assessment of the conduct of the election in terms of its compliance with key international commitments and standards for democratic elections and the stipulations of relevant national legislation, notably the election law and constitution.

The preliminary post-election statement will be viewed as the main findings and conclusions of a domestic observer group. Therefore, it needs to be clear and concise, with the main points clearly articulated. Endless detail and less vital issues should be avoided. More lengthy description and examples should be kept for the final report.

Finally, an observer group will have to balance the pressures of the media for early comment against the need to collate its findings and conclude its analysis. Many elements of the statement concerning the pre-election period can be prepared prior to election day, with conclusions on the voting, counting, and tabulation added once reports of these aspects of the process have been analysed. A domestic observer group should establish a reporting framework that enables a timely delivery of the preliminary statement. While a group should not be rushed into a premature declaration, it must recognize that its conclusions will receive the most attention and have the most impact at the time when the public and media are most concerned, i.e., in the days immediately after the election.

E. FINAL REPORT

A final report should be issued within two months of an election. The report should provide detailed analysis of all aspects of the electoral process that have been observed. Care should be taken to ensure that the report is clearly written and can be understood by people who are not election experts. It is essential that all statements made in the report can be supported with verified evidence. Any doubtful material should not be included. It is suggested that a final report contain the following sections:

- » Executive summary;
- » Introduction and acknowledgements;
- » Political background;
- » Analysis of legislative framework;
- » Analysis of the voter registration process and/or the results of any voter list audit;
- » Monitoring of election administration;
- » Observation of candidate registration;
- » Observation of the election campaign;
- » Monitoring of the media;
- » Observation of voting, counting, and tabulation;
- » Official results and commentary;
- » Resolution of complaints and the efficiency of the system of adjudication;
- » Recommendations.

Recommendations should be clearly formulated with a view to offering constructive suggestions for improving the electoral process.

In addition to issuing written statements and reports, a domestic observer group may also wish to provide verbal reports outlining findings and recommendations to election authorities, political parties, civil society, and the international community. This can provide the opportunity for an exchange of views about how improvements to the process can be achieved and can help to build trust between a domestic observer group and key interlocutors, specifically the authorities and the election administration. Verbal reports could be provided before or immediately after written reports are made public, on a regular basis during an election period, or in a post-election seminar for a range of interested participants, including the authorities, legislators, and the election administration.

F. REPORT DISTRIBUTION

Both statements and reports should be produced in the main language(s) of the country and, if possible, in minority languages and in English for international distribution. Statements and reports should be distributed to the local and international media, international organizations and NGOs, embassies, national authorities, political parties, candidates, donors, and the international community. Statements and reports should also be posted on a domestic observer group's website.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States “to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society” (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of election observation. It co-ordinates and organizes the deployment of several observation missions with thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's democratization activities include the following thematic areas: rule of law, civil society, freedom of movement, gender equality, and trafficking in human beings. The ODIHR implements more than 100 targeted assistance programmes every year, seeking

both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR promotes the protection of human rights through technical assistance projects and training on human dimension issues. It conducts research and prepares reports on different human rights topics. In addition, the Office organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States. In its anti-terrorism activities, the ODIHR works to build awareness of human dimension issues and carries out projects which fundamentally address factors engendering terrorism.

The ODIHR provides advice to participating States on their policies on Roma and Sinti. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).

