

REPORTING ON ELECTIONS



Council of Europe handbook
for civil society organisations

Programmatic Cooperation Framework for
Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine and Belarus

Funded
by the European Union
and the Council of Europe



COUNCIL OF EUROPE



Implemented
by the Council of Europe

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in writing from the Directorate of
Communication (F-67075 Strasbourg
Cedex or publishing@coe.int).

Cover design: Documents and Publications
Production Department (SPDP),
Council of Europe
Layout: Jouve, Paris

Council of Europe Publishing
F-67075 Strasbourg Cedex
<http://book.coe.int>

ISBN 978-92-871-8224-1
© Council of Europe, August 2016
Printed at the Council of Europe

Contents

FOREWORD	5
ACKNOWLEDGEMENTS	7
INTRODUCTION	9
CHAPTER 1. ELECTORAL CYCLE AND REPORTING	15
1.1. Election observation as part of the electoral cycle	15
1.2. Reporting principles	17
1.3. Types of reporting	21
CHAPTER 2. PLANNING THE OBSERVATION FROM A REPORTING PERSPECTIVE	25
2.1. Scope of the domestic election observation	25
2.2. Objectives of the domestic election observation	26
2.3. Realistic and coherent work plan based on the organisation's capacities	28
2.4. Training plan on reporting	31
2.5. Communication plan	33
CHAPTER 3. INTERNAL REPORTING	39
3.1. Internal reporting plan	39
3.2. Definition of roles	43
3.3. Reporting forms	47
3.4. Training tips	55
3.5. Possible challenges and constraints	57
CHAPTER 4. EXTERNAL REPORTING	65
4.1. Training of the Core Team	65
4.2. Structure of external reports	67
4.3. Reporting tips	84
4.4. Reporting topics and checklists	91
4.5. External communication of the report	116
4.6. Possible challenges and constraints	120
4.7. Advocacy/follow-up to the recommendations	124
ANNEXES	129
Annex 1 – Abbreviations and acronyms	129
Annex 2 – Definitions	131
Annex 3 – Reporting forms (examples)	133
Annex 4 – Bibliography	149

Foreword

The right to free elections is guaranteed under the European Convention on Human Rights. Of all the democratic safeguards against the abuse of political power, it is one of the most fundamental. The ability of individuals to express their identities and choices peacefully, at the ballot box, is central to stability in any society, and so to Europe's democratic security too.

The tasks performed by election observers are therefore extremely important. Elections must be prepared with diligence and integrity, and observers must perform their duties in an unbiased and transparent manner. Their presence and professionalism helps ensure the confidence of voters, as well as of the international community. The Council of Europe and our partner organisations therefore strive to assist organisations conducting observations to do so to the highest standards.

This handbook draws on methods for electoral assistance developed by our Organisation over many years. It aims to help observers to become more efficient and to produce reports which are more effective. Our starting point is that, far from watching passively from the sidelines, observers play an active role in developing national electoral procedures through their advice and recommendations. It is therefore vital that mission reports and advice issued to national authorities are easily understood and can be translated into concrete action. There are also a number of important principles to which we believe observers should pay special attention during an election, including the participation of women, young people, national minorities and people with disabilities.

This new edition will, I believe, provide organisations engaged in these activities with a practical, useable guide, reflecting decades of relevant experience and supporting them in their invaluable work.

Thorbjørn Jagland

Secretary General of the Council of Europe

Acknowledgements

Words of thanks, recognition and appreciation are owed to the following.

The experts of the Working Group on the revision of the Council of Europe Handbook for Civil Society Organisations on “Reporting on Elections” – Ivan Godársky, Marie-Carin von Gumpfenberg, Ardita Driza Maurer, Diane Bunyan, Jordi Barrat, Petra Bornhöft, Daniela Diaconu, Nicolae Panfil, Quenteen Reed, Tamar Bartaia, Roman Udot, Vladimir Pran, Dmitry Nurumov for their contributions and ideas.

The Council of Europe network of Civil Society Organisations for elections observation in the countries of Eastern Partnership – Committee of Voters of Ukraine, Civil Network OPORA (Ukraine), Belarus Helsinki Committee, Human Rights Centre Viasna (Belarus), Election Monitoring and Democracy Studies Centre (Azerbaijan), International Society for Fair Elections and Democracy (Georgia), Association PROMOLEX (Moldova), Transparency International Anticorruption Center (Armenia) and Helsinki Citizens’ Assembly – Vanadzor (Armenia) for their professionalism, commitment, creativity and practical examples.

The non-governmental organisation MEMO 98 (Slovakia) for their fruitful co-operation, ideas and input to the chapters related to media coverage of elections.

The team of the Division of Electoral Assistance and Census of the Directorate General for Democracy of the Council of Europe.

The European Commission for their financial assistance through the Programmatic Cooperation Framework 2015-2017.

The Media and Internet Governance Division of the Directorate General of Human Rights and Rule of Law; the Department of Statutory Activities, Congress of Local and Regional Authorities; the Elections and Political Parties Division, Secretariat of the Venice Commission; the Division of Election Observation and Interparliamentary Cooperation, Secretariat of the Parliamentary Assembly of the Council of Europe; the Civil Society Division of the Directorate General of Democracy for their input.

Introduction

COUNCIL OF EUROPE AND DOMESTIC ELECTION OBSERVATION

Elections are a pre-condition for democratic governance since it is through them that the citizens of a country choose freely, and on the basis of the law, the persons that can legitimately govern in their name and in their interest. The conduct of democratic elections that take into account fundamental human rights and freedoms and are based on the rule of law ultimately contributes to the setting up of procedures and institutions which form good governance. It is for these reasons that elections and electoral processes retain the attention of the Council of Europe and other international organisations, as well as of the civil society organisations in its member states.

While there is a distinction between international and domestic election observers, both should enjoy equal freedoms and rights and follow common principles. In the Council of Europe, it is the Parliamentary Assembly and the Congress of Local and Regional Authorities that conduct (often jointly with the OSCE Office for Democratic Institutions and Human Rights (ODIHR) international observation of general and local elections respectively. When it comes to domestic election observation, this expression may include both party and non-partisan observers. This handbook, however, aims to help civil society organisations conduct professional observations of elections through the drafting of reports in respect of their findings.

Although the Council of Europe started to study the question of civil society organisations (CSOs) in 1986, when it adopted for the first time the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations, its work with respect to the promotion of strong civil society organisations actually started with the accession of new members from South-East and Central and Eastern Europe. In parallel with the work on the legal status of CSOs, the Council of Europe's Venice Commission drafted Guidelines on an Internationally Recognised Status of Election Observers (adopted on 10 December 2009).¹

1. Available at [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2009\)059-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)059-e).

The guidelines aim to promote an internationally recognised status of “election observer”, including that of “domestic election observer”. The document notes that both international and domestic observers should be granted the same freedoms; and should have common principles and rights, as well as duties. It points out that international election observation should have, *inter alia*, a duty to evaluate and report on whether national election observation organisations are able to conduct their activities without undue interference or restrictions, and recall international standards in case national organisations are limited or prevented from exercising their election observation. Additionally, the guidelines stress that assessment vis-à-vis domestic legislation, as well as international standards and good practice, should be core criteria in the assessment of the conduct of an electoral process. They insist on the fact that, since elections are a process and not a one-day event, the areas of assessment of electoral observation includes three phases: the pre-voting phase, the voting phase and the post-voting phase. The pre-voting observation starts with the assessment of the legislation and, where appropriate, of its revision process, and includes voters and party registration. The post-voting phase goes up to the settlement of complaints and appeals and the taking up of electoral officials. The guidelines complement the Declaration of Principles for International Election Observation (adopted on 27 October 2005 by the United Nations) dedicated to international observers.

PROFESSIONALISATION OF DOMESTIC ELECTION OBSERVERS

With time, the role of domestic observer became increasingly important and was not only limited to the election day, but also took in the pre-voting phase and, in particular, the post-voting phase. Domestic election observation has thus become far more sophisticated and important for the legitimacy of the election process as it contributes directly to the promotion and protection of human rights.

The presence of observers at polling stations remains the centrepiece of the observation effort. At the same time, techniques for election observation have advanced, with significant changes in their deployment, data collection, reporting, etc. These changes reflect a greater appreciation of the importance of the political culture and a keener understanding of the need for more systematic evaluation of the quality of the electoral process. The continuing reflection and interpretation of international standards and good election practices have made it easier for observers to evaluate the election process as a whole and to understand its various parts.

As a result, domestic election observers now have at their disposal instruments that are more wide-ranging than ever before, which makes them more powerful. As election observation has become more systematic, observers have become increasingly adept at developing and deploying multiple strategies for detecting and deterring the subtler efforts of electoral manipulation and fraudulent conduct of various electoral stakeholders. Domestic observers have become inevitable guardians of the electoral process.

INCREASING ROLE OF DOMESTIC ELECTION OBSERVERS IN MAKING THE CHANGE

With domestic election observer groups becoming increasingly professional, the international community started to rely more and more on their expertise. In particular, domestic observers are more familiar with the situation on the ground; they assist international observers by providing information about the electoral process from the very beginning (even before the international observers are deployed) and in detail. Furthermore, domestic observers have the mandate not only to observe but also to actively participate in the electoral process: primarily, they follow up on election violations and shortcomings and assist in the implementation of steps adopted to improve the electoral process.

With the increased professionalisation of domestic election observers, citizens own more and more of the electoral process as they take part in elections, not only as voters and candidates but also as observers. In this way they contribute to the transparency and credibility of the electoral process, and as such promote public confidence in the integrity and honesty of the elections.

CHALLENGES OF DOMESTIC ELECTION OBSERVERS

Depending on the country, the rights of domestic observation were not always respected and their observation work often restricted. For example, in 2003, the OSCE/ODIHR, in its final report on the presidential election in Azerbaijan, noted that the law prohibited “domestic organizations that receive more than 30% of their budget from foreign State funding from observing elections. The effect of the legislation was to reduce the transparency of, and public participation and confidence in, the elections. It undercut NGOs’ advocacy and lobbying abilities with relation to electoral matters.”² Another example is the presidential elections in Ukraine in 2010, when the authorities prohibited non-partisan national observers. The legal situation in the country changed in 2014 and civil society organisations were able to perform observation work.

Nevertheless, in some countries national observers still face limitations preventing them from exercising comprehensive rights during the entire electoral process. Understanding that the process is often a long-term journey, this handbook aims to encourage all domestic observation groups to pursue their democratic objectives, so that the internationally recognised right to take part in the conduct of public affairs can be fully enjoyed for the benefit of each country, throughout the electoral cycle.

Naturally, while domestic observation in some countries seeks to enshrine basic rights in legislation, other more experienced and professional groups seek additional tools in order to increase the resonance of their observation efforts and findings. At the same time, it is also crucial that domestic observers have knowledge of international standards, relevant domestic legislation and responsibilities. It is also the role of the Council of Europe to help domestic observers to identify the most outstanding issues.

2. OSCE/ODIHR, Final Report, Republic of Azerbaijan, 15 October 2003 Presidential Election, available at www.osce.org/odihr/elections/azerbaijan/13467?download=true.

Observation by the Council of Europe through pre-electoral assistance programmes in the countries of the Eastern Partnership has shown that the professionalism and independence of domestic observation groups could be further strengthened if they received additional support in:

- ▶ developing a more comprehensive and systematic approach to election observation that can be employed to provide more structured and message-oriented reporting, including recommendations and advised follow-up developments;
- ▶ integrating to a greater extent international election standards and good practice in their election observation methodology;
- ▶ committing to strict impartiality and non-interference of the observation, including reports based on facts and credible evidence and adherence to a code of conduct.

While spelling out the above-mentioned needs, the domestic observers in the Council of Europe assessment stated that their neutrality and objectivity is frequently being challenged – in particular during highly competitive and contested elections. Often domestic observers on the ground are intimidated, harassed and/or bribed, and some are even prosecuted. They are hindered in fulfilling their work as observers, excluded from polling stations, physically threatened, and/or their friends and family members are given severe warnings on future repercussions.

THE HANDBOOK

Issues faced by domestic observers are at the core of the Council of Europe's technical assistance in the electoral field. The present handbook is a response to the assessment made by the Council of Europe of the needs of domestic observers with particular focus on the right to write reports of the observation with recommendations. This will contribute to strengthening the capacities of the domestic observers and promoting their professionalism.

The handbook is written for domestic observers, specifically focusing on the reporting of Core Team members. At the same time, it also includes the reporting of long- and short-term observers. It covers mainly final election reports and reports/statements on preliminary findings, while also providing insights into interim reports; it gives ideas about ad hoc reports, press releases, as well as tips on how to follow up on recommendations.

The handbook gives an overview of the planning of observation activities from a reporting perspective: the scope of election observation, assessment of the organisations' reporting capacities, key observation principles and what the observation could focus on, how to assess one's own organisation's reporting capacities, key observation principles, and how to conduct training on reporting.

The handbook further proceeds with a chapter about internal reporting: the reporting plan, staff responsibilities with regard to reporting, their training and internal reporting forms.

Further on, the handbook covers external reporting, starting with an insight into training of Core Team members and reporting tips, and following with an overview of the structure and content of final reports.

An important part of the handbook is dedicated to reporting checklists for each of the reporting topics: political context, legal framework, election administration, voter lists and voter registration, registration of contestants, voter education, election campaign, media coverage of elections, election day, tabulation and publication of the results, complaints and appeals, post-election developments.

The handbook concludes with tips on the external communication of a report, and the advocacy of a report's recommendations.

With this handbook the Council of Europe hopes to contribute to further professionalising domestic election observation, which has a vital role in promoting and protecting the integrity of the electoral process in line with the principles of Europe's electoral heritage. As elections are not a one-day event, it is even more important that domestic observer groups stay firmly committed to observing pre- and post-electoral developments as inevitable parts of the electoral cycle. The Council of Europe will continue to further assist developments in this area.



Chapter 1

Electoral cycle and reporting

1.1. ELECTION OBSERVATION AS PART OF THE ELECTORAL CYCLE

Elections are embedded in a recurrent election cycle. The electoral cycle is generally regarded as running from the moment an election is held to the moment the next election is held. The underlying idea is that elections are not isolated events but processes that expand well before and well after election day. There is usually more than one election cycle at the same time. Parliamentary elections held at four-year intervals, for instance, have a different election cycle to presidential elections taking place every five years.

Other terms may be used which often have a narrower scope. “Electoral period” is one of them. It generally refers to the time period commencing on the day when the date of elections is officially announced and ending on the day when the final election results are confirmed by the authorised bodies. Observers should be sensitive to such varied terminology. More importantly, they should be clear about the events in the relevant electoral cycle that are relevant to the aspects of elections they plan to observe.

The way in which the election cycle is relevant for observers depends on the type of observation that is conducted. For example, observation of the preparation and conduct of voting itself may focus on election day, the period of voter registration, the period of establishment of electoral commissions, and even specific political changes such as boundary changes or electoral code revisions. In another example, campaign finance monitoring will need to pay special attention to the relationship between income and expenditure occurring within the official election campaign period and income and spending falling outside it.