



Guidelines for Public Security Providers in Elections

Published by the OSCE's Office for Democratic Institutions
and Human Rights (ODIHR)

Miodowa 10

00-251 Warsaw

Poland

www.osce.org/odihr

© OSCE/ODIHR 2017

ISBN 978-92-9234-950-9

All rights reserved. The contents of this publication may be freely used and copied for educational and other non-commercial purposes, provided that any such reproduction is accompanied by an acknowledgement of ODIHR as the source.

Cover photograph by Silke Tittel

Designed by Nona Reuter

Printed in Poland by Poligrafus Jacek Adamiak

Guidelines for Public Security Providers in Elections



Contents

Foreword	7
1. Introduction	9
1.1 About the Guidelines	9
1.2 Context and Applicability across the OSCE Region	10
1.3 How to Use These Guidelines	11
2. Electoral Context and Security Actors in an Electoral Process	13
2.1 Defining Electoral Security	13
2.2 Public Security Providers and Other Security Actors	14
2.3 Potential Impact of Insecurity or an Overabundance of Security in the Electoral Process	16
2.4 Considerations for Vulnerable and Marginalized Groups	16
3. Guiding Principles for Ensuring Electoral Security	21
3.1 Summary of Guiding Principles for Public Security Providers	21
3.2 OSCE Commitments and Other International Obligations and Standards for Democratic Elections Related to Electoral Security	23
3.3 Obligations of the Government and Security Providers	28
3.4 Restrictions on the Use of Force	29
3.5 Security in Emergency Situations	30
3.6 Accountability of Law Enforcement and Other Security Personnel	32
4. ODIHR's Approach to Security Issues within the Electoral Cycle	33
4.1 General Considerations	33
4.2 The Needs Assessment Mission	34
4.3 The Observation Mission	34
4.4 Follow-up	36
4.5 Citizen Observer Organizations	37
5. Assessing Security during the Different Electoral Stages	39
5.1 General Considerations for Electoral Security	39
5.2 Pre-electoral Period	41

5.3 Electoral Period	51
5.4 Post-electoral Period	55
6. ODIHR and Mission Security	59
6.1 Security Considerations for Election Observation	59
6.2 Security Arrangements during ODIHR Election Missions	60

Foreword

The methodology followed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in its election observation activities is widely recognized for its systematic and comprehensive approach and serves as guidance for other international and citizen observer organizations. As tasked by the OSCE participating States, ODIHR continuously strives to further develop and refine its observation methodology by developing publications on specialized aspects of elections. Security is an important and necessary element of any electoral process, including throughout the election campaign and during voting, counting and the tabulation of results. Those agencies responsible for ensuring this security can have an influence on these and a number of other stages in any electoral process. Indeed, elections held across the OSCE region have shown the impact – both positive and negative – that security providers can have on an electoral environment.

These guidelines are intended as a reference document for ODIHR election experts in the course of observing and assessing the framework for providing security and the conduct of public security providers over the course of an election. The guidelines may also benefit other organizations seeking guidance on how to assess these issues in the course of their election observation activities. The guidelines can also serve as reference material for government and election authorities, including those who legislate on electoral security, and for public security providers themselves.

We wish to thank experts and organizations that provided valuable input and feedback throughout the development of this publication, particularly those that have endorsed the Declaration of Principles for International Election Observation. These guidelines would not have been possible without their support and co-operation.

Ingibjörg Sólrún Gísladóttir
ODIHR Director



1. INTRODUCTION

1.1 About the Guidelines

These guidelines are intended as a reference document for the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe and assess the framework for and conduct of public security providers over the course of an election. They may also benefit other organizations engaged in election observation seeking guidance on how to assess these issues. In addition, these guidelines may serve as a reference for the authorities, including those who legislate on electoral security and for public security providers in the context of an election.

They are based on applicable international obligations and standards for democratic elections, with a particular emphasis on OSCE commitments, as well as international good practice. By developing ODIHR's election observation methodology

in this area, these guidelines aim to ensure that assessments of the role of public security providers during an election are carried out in a professional and consistent manner.

These guidelines are limited in scope. The intention is not to comprehensively explore the underlying causes of insecurity during an electoral process, such as corruption, weak rule of law or possible flashpoints of electoral insecurity. Instead, the purpose is to provide a set of considerations regarding security-related components of an electoral process. This approach is not, however, meant to determine the minimum level of security that is required for an election to be conducted.

This publication was developed using extra-budgetary contributions from OSCE participating States and serves to enhance ODIHR's election observation methodology. It is intended to complement an existing array of specialized handbooks and other publications devoted to various aspects of election observation.¹

1.2 Context and Applicability across the OSCE Region

Countries hold elections under different circumstances with varying political, security, economic, and social conditions. A secure electoral environment is crucial to ensuring the overall integrity of the process, and the respective authorities in a given country play an important role.

There are two aspects, however, that can pose a challenge in terms of security. On the one hand, it is necessary to establish or maintain a secure and peaceful electoral environment and to preserve law and order, including bringing anyone aiming to disrupt the process to justice. On the other hand, it is necessary to ensure that security-related provisions or actions do not interfere with or undermine the enjoyment of fundamental freedoms or challenge the legitimacy of the electoral process. This entails an absence of harm or threats of harm, as well as support for an environment conducive to holding democratic elections.

The importance of security in an electoral process is considerable. Public security providers can have an impact on the conduct of an election through involvement in a number of its elements. This includes their relationship with and as stakeholders, as well as their roles and responsibilities in various activities and processes. Legislators and those working in the public security sector should ensure that the framework pertaining to the roles of, and activities by, security providers are well established and widely understood. It is crucial that such activities be viewed as impartial and not for the benefit of the authorities or an incumbent or biased for or against any particular group. Elections held across the OSCE region have shown

¹ For all ODIHR election-related publications, visit the [ODIHR website](#).

the impact and influence that security providers can have on an electoral environment with both positive and negative outcomes.

Given the impact of security on an election and more broadly on a democratic process, a number of international organizations working in the field of elections have addressed the topic of security in their programmatic activities and publications. In the context of the OSCE, the 2012 OSCE Strategic Framework for Police-Related Activities identifies the promotion of democratic policing as the guiding principle of the OSCE's police-related activities. Additionally, the 2008 *OSCE Guidebook on Democratic Policing* outlines good practice and identifies principles that the police should follow during electoral periods in line with international policing standards.

As part of its programmatic activities, the OSCE's institutions and structures, particularly its field operations, have undertaken projects aimed at building the capacity of law enforcement bodies, raising the awareness of international policing standards, and improving police performance during an election. Other organizations, such as the United Nations (UN), have developed guidelines on how international police may be required to provide support throughout an election under specific conditions.²

A number of other publications focus on broader causes of election-related violence. Of particular relevance is the role of security forces and related measures and good practices to prevent or mitigate election-related conflict.³ A range of documents are also available on broader considerations of democratic policing principles and the integration of a human rights approach in the work of security forces, with a specific focus on law enforcement.⁴

1.3 How to Use These Guidelines

- Following the introduction, **Chapter 2** provides context, defines electoral security, and categorizes public security providers and other security actors. It considers the potential impact of insecurity on the integrity of an election and also provides specific considerations for vulnerable and marginalized groups.

2 See the **Guidelines on Police Support to the Provision of Security in Electoral Processes**, UN Department of Peacekeeping Operations/Department of Field Support, 2013.

3 For instance: Policy Directive on Preventing and Mitigating Election-Related Violence, UN Department of Political Affairs, 2016; **Best Practices in Electoral Security**, United States Agency for International Development, 2013; **Guide on Action Points for the Prevention and Mitigation of Election-Related Violence**, International IDEA, 2013; **Elections and Conflict Prevention: A Guide to Analysis, Planning and Programming**, UN Development Programme, 2009.

4 For example, the **European Convention on Human Rights and Policing**, Council of Europe, 2013.

- **Chapter 3** outlines a series of guiding principles for public security providers in the performance of their duties. It then presents a general overview of OSCE commitments and other international obligations and standards for democratic elections in the context of electoral security, as well as the obligations of security providers under different circumstances in an election.
- **Chapter 4** places electoral security in the context of ODIHR's approach to observation within an electoral cycle. It outlines ways and approaches in which aspects of electoral security are addressed within ODIHR's methodology.
- **Chapter 5** presents a series of issues and lines of inquiry that should be taken into consideration when assessing the provision of electoral security during the pre-electoral, electoral, and post-electoral periods.
- **Chapter 6** concludes with an examination of how security is managed in the context of ODIHR's election-related activities. It presents security considerations for election observation and arrangements by ODIHR to ensure the security of its observers.



2.

ELECTORAL CONTEXT AND SECURITY ACTORS IN AN ELECTORAL PROCESS

2.1 Defining Electoral Security

Public security is a function directed and overseen by a government to ensure the protection of its citizens, organizations, and institutions against threats to their well-being. Key aspects can include national security, individual and physical security, information security, and infrastructure protection. Different security forces, all of which are accountable to the government, may be tasked with responsibility for various aspects. Potential threats may be multifaceted and complex and may shift over time. Protection can be undertaken through a combination of prevention, mitigation, and response.

Various definitions of electoral security have been developed. For these guidelines, the term is used broadly and refers to the protection of all stakeholders, activities and processes, election facilities and materials, and information within the pre-electoral, electoral, and post-electoral periods from harm or threat of harm to facilitate peaceful and democratic elections.

Key elements that may require consideration in the framework of electoral security include:

- **Stakeholders:** candidates, voters, election officials, representatives of other state institutions supporting an election, representatives and supporters of candidates and parties, media personnel, civil society representatives, and observers.
- **Activities and processes:** voter registration, candidate registration, campaign meetings, rallies, and other campaign-related activities, training of election staff, voting, counting, tabulation, transfer of election materials, adjudication of complaints and appeals, and post-election activities.
- **Facilities and materials:** election administration premises (election commissions, voter registration centres, polling stations, counting centres, and storage facilities), relevant courts, party and candidate campaign materials and offices, allocated space for campaigning, and materials (in particular sensitive voting materials and equipment).
- **Communication systems and information:** databases containing voter, candidate, or party information, relevant websites and communication systems, including technologies (hardware, software, and networks) used in voting; as well as counting, tabulation, and transmission of results.

2.2 Public Security Providers and Other Security Actors

The primary responsibility for ensuring electoral security is most commonly vested with the host country's law enforcement bodies such as the police at the national level or lower. Law enforcement generally serves a dual role of providing security while concurrently ensuring that laws and regulations governing the conduct of an election are followed.

Additional components of a state's security structure may be mobilized, including the following:

- specialized protection forces, such as guards or close-protection units;
- intelligence and secret services;

- armed forces, including the army, navy, air force, coastguard, and other formations;
- border guards and customs authorities;
- reserves and local security units, civil defence forces, national guards.

Security considerations are unique for each election. The degree of involvement of different public security providers varies among states. The assignment of security responsibilities to specific actors depends on the division of labour, as well as on the legal, political, and financial arrangements. With varying security challenges, the most appropriate arrangements need to be identified by considering the overall security situation, the legal requirements, and possible sensitivities related to perceptions of security actors.

Public security is rooted in, and regulated by, laws, and any actions, should be subject to legislation on the conduct of their activities. Regardless of the arrangements, they must not impinge on the full enjoyment of the political rights of stakeholders (or only impinge to the extent necessary given the security situation).

In most OSCE participating States, the participation of military personnel within the context of an election is not permitted. Unforeseen or emergency situations may require the involvement of alternate services to support law enforcement in the provision of security during an election. In specific circumstances, the military may have a role to ensure aspects of security under special arrangements. Such involvement should generally be derived from constitutional provisions on emergency situations with the role and responsibilities of the military defined in the constitutions and specific laws of each country.

Apart from public security providers, other authorized security actors may be required to perform a role related to the provision of electoral security, particularly in conflict or post-conflict environments. These may include the following:

Private security providers: Commercial companies (national and international) that provide election-related security on behalf of, or supplemental to, state authorities, or alternatively to stakeholders within the electoral process. These actors should be subject to national legislation on the conduct of their activities.

External security actors: International police or peacekeepers and non-civilian personnel from other states.

In addition, electoral activities may take place on a territory either controlled by, or with influence from, non-state actors (such as paramilitaries, insurgents, and rebels)

whose activities are often considered illegitimate or illegal. Contact with, and possible reliance on, such groups for security during an election may be unavoidable and de facto required.

2.3 Potential Impact of Insecurity or an Overabundance of Security in the Electoral Process

It is not possible to organize democratic elections in a context where stakeholders are fearful of the consequences of their participation or choices. However, the mere absence of threats or violence is insufficient to ensure an environment in which electoral choices can be expressed freely. Security providers need to take action to enable a fair and open election campaign, as electoral security should be viewed as more than simply an absence of a threat or of fear. A peaceful electoral environment is crucial to enabling an open and fair campaign and calm conditions that allow the exercise of fundamental freedoms.

Depending on the specific circumstances, a range of consequences may result from an insufficient level of security provided during an election, e.g., an inadequate level of security may discourage or inhibit participation. In addition, compromised trust in the electoral process could lead to contentious elections, which in some cases has been identified as a factor in causing or increasing broader instability.

Conversely, a potential overabundance of security may have an adverse impact and threaten the integrity of the electoral process. A robust security presence could limit overall incidences of violence. However, such a situation may influence aspects such as campaigning or voter turnout by heightening the risk of intimidation and potentially posing a challenge to fundamental freedoms. In some circumstances, law enforcement may be viewed as an instrument of the state and may contribute to the perception or the reality that they are not acting independently in the execution of their duties. Elections held in conflict or post-conflict environments represent a more challenging environment in which to conduct such a complex event and to ensure sufficient and balanced levels of security.

2.4 Considerations for Vulnerable and Marginalized Groups

Certain vulnerable and marginalized groups may face particular challenges to their ability to fully participate in an election. Among them, specific concerns have been identified for internally displaced persons (IDPs), women, national minorities, and persons with disabilities. These groups are adversely affected by threats, violence, and intimidation, and such tactics may be used to suppress their participation as candidates, supporters, or voters. In particular, they may be subject to hate speech, intimidation, or incitement to violence.

Insecure or uncertain electoral environments have the potential to exacerbate existing disparities and pose further obstacles to equal and effective participation and representation. Existing international and regional instruments aim to ensure the protection of such groups and support their full participation in political and electoral affairs. An inclusive approach to incorporating individuals from these groups into existing public security structures may also further enhance efforts aimed at inclusion and protection.

Internally Displaced Persons

Across OSCE participating States, a range of conflicts or crises have led to a high number of persons being displaced from their homes and communities within their own country. IDPs are among the most vulnerable groups, as they face numerous and extended obstacles to resettlement and reintegration.

While the right to political participation is guaranteed to everyone, there are numerous challenges that may inhibit the full electoral participation of IDPs, including a lack of necessary identification or registration documents, restrictive residency requirements posing a challenge with voter registration, and a lack of access to voter information, voter registration, and polling locations.

Authorities should ensure that IDPs are able to exercise their right to political participation while they are displaced and upon their return or relocation. Various authorities and institutions, including the electoral management body, share the responsibility of ensuring that provisions for registration and voting are established and that these processes are accessible.

In some cases, given the potential insecurity that may result from a crisis or conflict, specific security arrangements may be necessary to ensure sufficient conditions for IDP participation. This may require the involvement of law enforcement to ensure security around and at dedicated voter registration and polling locations and may necessitate supplemental training and information for security personnel on managing such situations and the specific requirements and needs of IDPs.

Women

Across the OSCE region, women's participation in political and electoral processes remains low. In some cases, cultural specificities and established societal roles inhibit women's active participation in an election. This may be seen in the form of a variety of limitations, including in relation to voter and candidate registration, representation in electoral management bodies and public security providers, the ability to campaign freely, sufficient access to campaign resources, media coverage, access to voter education, and the exercise of voting free from intimidation or

manipulation. An adequate legal framework may have a limited impact on enhancing women's participation unless it is effectively implemented and enforced.

Electoral violence has been shown to have a disproportionate impact on women both as candidates and as voters.⁵ The following definition explains electoral violence and its impact on women: “[electoral violence refers to] any harm or threat of harm committed against women with the intent and/or impact of interfering with their free and equal participation in the electoral process during the electoral period. It includes harassment, intimidation, physical harm or coercion, threats, and financial pressures, and it may be committed in the home or other private spaces, or in public spaces. These acts may be directed at women in any of their roles as electoral stakeholders (e.g. voters, media, political actors, state actors, community leaders, or electoral officials).”⁶

Weak enforcement of electoral legislation by law enforcement may have a particularly detrimental effect on women. In some cases, women may not have sufficient information about their rights or avenues of legal recourse should their rights be infringed.

National Minorities

National minorities often face challenges related to their participation in public life and in particular during elections. These challenges may include, among other things, legal impediments to effective participation, susceptibility to manipulation, undue influence or pressure, societal or economic marginalization, or negative public perceptions.⁷ Throughout the OSCE region, minority communities, and Roma and Sinti in particular, face a number of human rights challenges in their interactions with law enforcement. The relationship between the police and these communities may suffer from mistrust and a lack of understanding, which can be exacerbated during periods of heightened tension during an election.

Persons with Disabilities

Effective democracies ensure that all citizens have a meaningful voice in political decisions affecting their lives and are able to participate in political and public life

5 See the **Votes without Violence: A Citizen Observer's Guide to Addressing Violence against Women in Elections**, National Democratic Institute, 2016.

6 **Violence Against Women in Elections: A Framework for Assessment, Monitoring, and Response**, International Foundation for Electoral Systems (IFES), 2017.

7 See pp. 35-38 of the **Review of Electoral Legislation and Practice in OSCE Participating States**, OSCE/ODIHR, 2013; and the **Handbook on Observing and Promoting the Participation of National Minorities in Electoral Processes**, OSCE/ODIHR and OSCE High Commissioner for National Minorities, 2014.

on an equal basis. Persons with disabilities are often overlooked and face obstacles to engaging politically and enjoying the same rights, responsibilities, and respect afforded to all citizens. International instruments demonstrate an evolving approach to the electoral participation of persons with disabilities that places an obligation on the state to enact measures to promote their participation on an equal basis. Central considerations are to ensure that voter information, campaign activities, polling stations, and electoral materials are equally available to persons with disabilities.



3.

GUIDING PRINCIPLES FOR ENSURING ELECTORAL SECURITY

3.1 Summary of Guiding Principles for Public Security Providers

Fundamental rights and freedoms pertinent to elections are protected by OSCE commitments and a broad range of other international obligations and standards and supported by international good practice. The implementation of principles for democratic elections enshrined in these norms requires consistent effort by all bodies and institutions involved in administering, overseeing, and supporting electoral processes.

While international obligations tend not to directly address the role of public security providers in elections, there are provisions that are applicable throughout an

election. There are numerous fundamental principles that institutions within a democratic society should be guided by and that are applicable to public security providers and underpin the delivery of the public security mandate for elections on behalf of the state. Governments, both as a participant in, and facilitator of, an electoral process should contribute to the overall objective of ensuring elections in line with established principles for democratic elections.

The following is a summary of guiding principles concerning public security during an election based on OSCE commitments and other international obligations and standards, as well as international good practice.

Enabling conditions for democratic elections: Establishing or maintaining a secure and peaceful electoral environment and preserving law and order, while ensuring security provisions do not undermine the enjoyment of fundamental freedoms or challenge the legitimacy of the electoral process.

Neutrality and non-interference: Public security providers should not be engaged in politics, take sides or demonstrate preferential support for any specific party or candidate. They should remain neutral and be perceived as impartial.

Equal treatment and non-discrimination: Public security providers must ensure equal conditions and guarantee equal protection for all participants throughout an electoral process.

Proportionality and the rule of law: Public security providers should operate in accordance with domestic law and international norms, and ensure that any necessary interventions are only required to achieve specific objectives of maintaining order based on a legitimate aim. Any restrictions during an electoral process should be based in law and be proportional to the objectives.

Transparency: Electoral stakeholders should be aware of the role played by public security providers and be able to foresee actions and activities in accordance with established legislation and procedures. Law enforcement agencies and personnel should undertake efforts to ensure the availability of information to the public concerning its activities and cultivate a police-public partnership.

Accountability: Personnel involved in the provision of electoral security should be accountable for their actions. The public should be able to

understand whether public security providers are operating in the proper manner and whether they are achieving their purpose.

Public confidence: Public security providers should respect and protect human rights and consistently apply and enforce legislation and regulations on elections, act promptly to prevent or stop any harmful action, follow up on incidents or violations as required, and abide by principles of professional integrity.

3.2 OSCE Commitments and Other International Obligations and Standards for Democratic Elections Related to Electoral Security

OSCE Commitments

Within the OSCE, the 1990 OSCE Copenhagen Document (paragraphs 6 and 7) serves as a key reference document and outlines politically binding commitments for the conduct of democratic elections. Considerations on fundamental freedoms central to the conduct of democratic elections include the freedoms of expression, opinion, association, and peaceful assembly. These are explicitly referenced and form a key pillar of any electoral framework.⁸

The Copenhagen Document provides for universal and equal suffrage and the right of citizens to seek office and to compete on the basis of equal treatment before the law and by the authorities. It contains a series of guarantees throughout the electoral process, and public security providers have a role and responsibility to ensure that such guarantees are met.

This includes permitting campaigning to be conducted in an open and fair atmosphere without administrative action, violence, or intimidation; providing unimpeded media access on a non-discriminatory basis; and not preventing voters from learning about campaign platforms or from casting their vote free from fear of retribution. Where voter or candidate rights are violated, they have the right to an effective remedy. Vote-buying or other illegal practices may compromise the free expression of the will of the electorate, and any misuse of state resources may distort equal opportunities for contestants.⁹

Democratic principles underpin election-day procedures, whereby votes should be cast by secret ballot and should be counted, tabulated, and reported honestly and

⁸ See paragraphs 9.1-9.3 of the **1990 OSCE Copenhagen Document**.

⁹ See the **Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources**, OSCE/ODIHR and the Council of Europe's European Commission for Democracy through Law (Venice Commission), 2016.

in a transparent manner, with the results made public. Respect for the outcome of an electoral process is ensured through the requirement that the candidates who receive the votes necessary to be elected are duly installed in office and permitted to remain in office until their term expires.

In addition, in the 2003 OSCE Maastricht Ministerial Council Decision, OSCE participating States recognized the need for confidence by the electorate in the entire process, for transparency of election procedures, and for accountability on the part of authorities conducting elections. Finally, paragraph 8 of the Copenhagen Document references the basis for, and benefit of, the presence of election observers, both international and citizen throughout the entire process.

Universal Instruments

The principles of democratic elections are explicitly recognized in several universal human rights instruments, including the 1948 UN Universal Declaration of Human Rights (UDHR), which elaborates on the legally binding UN Charter. The UDHR establishes essential rights within an electoral process, including fundamental freedoms:

- Article 21 states that “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 by universal and equal suffrage and shall be held by secret ballot or by equivalent free voting procedures.”
- Article 20 guarantees that everyone has the right to freedom of peaceful assembly and association.
- Article 13 guarantees freedom of movement.
- Article 3 establishes the right to security of person.

The 1966 UN International Covenant on Civil and Political Rights (ICCPR) reiterates and expands on a number of civil and political rights protected under the UDHR. The authorities, including those related to security, have a key role to play in ensuring that citizens enjoy such rights in practice. Within this instrument:

- Article 25 grants every citizen the right to vote and to compete for public office.
- Article 2(1) stipulates that rights under the ICCPR should be guaranteed on a non-discriminatory basis, and Article 3 provides for the equal right of men and women to the enjoyment of all civil and political rights.
- Articles 12, 21, and 22 protect freedoms of association, assembly, and movement and prohibit any restrictions on these rights other than those that are prescribed by law and that are necessary in a democratic society in the

interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.

- Article 19(2) protects freedom of expression and the right to information as the right to seek and receive and impart information and ideas.

To supplement the ICCPR, the UN Human Rights Committee issues authoritative interpretations of its provisions through General Comments:

- General Comment No. 25 (1996) addresses a number of aspects in the electoral process. It underscores the importance of guaranteeing the effective exercise of voting rights, stresses independent and impartial electoral management bodies, and encourages individuals holding public service positions to demonstrate neutrality and abstain from political interference.
- General Comment No. 28 (2000) stipulates that Article 3 and its application must ensure non-discriminatory treatment and equal protection of all individuals.
- General Comment No. 34 (2011) stipulates that restrictions on fundamental freedoms, including the freedom of expression, may only be imposed if provided by law and if such restrictions comply with strict tests of necessity and proportionality. To meet the proportionality requirement, restrictive measures must be appropriate to achieve their protective function, must be the least intrusive instrument among those that may achieve their protective function, and must be proportionate to the interest to be protected.
- General Comment No. 35 (2014) outlines obligations under Article 9, which protects personal liberty and security and may be particularly relevant in the context of ensuring security during elections.

Other specialized UN human rights instruments contain a range of guarantees for specific groups that may require special consideration within the electoral process:

- Articles 1-3 of the 1953 Convention on the Political Rights of Women assert the rights of women to vote, to be elected, and to hold public office on equal terms with men, without any discrimination.
- Article 5 of the 1966 Convention on the Elimination of All Forms of Racial Discrimination guarantees everyone, without distinction or discrimination, “political rights, in particular the rights to participate in elections - to vote and stand for election” and “the right to security of the person and protection by the state against violence or bodily harm whether inflicted by government officials or by any individual, group of institution”.
- Article 7 of the 1979 Convention on the Elimination of All Forms of Discrimination against Women guarantees women’s right to participate in political

life and elections on the same basis as men, and commits states to providing conditions to facilitate this equality.

- Article 29 of the 2006 Convention on the Rights of Persons with Disabilities guarantees the right of persons with disabilities to “fully participate in political and public life on an equal basis with others”, including the right to vote and to be elected, and Article 14 provides that persons with disabilities “enjoy the right to security of the person on an equal basis with others”.
- The 1992 UN General Assembly Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states “the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live”.
- Principle 20 of the 1998 UN Guiding Principles on Internal Displacement states that IDPs have the same rights as all other citizens, including the right to vote and to participate in governmental and public affairs.

Regional Instruments

Among regional human rights mechanisms, the Council of Europe plays a key role in ensuring human rights and democratic elections. All Council of Europe member states belong to the OSCE.

In particular, Article 3 of the 1952 Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) contains similar guarantees to those found in international instruments for democratic elections and requires states to “hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature”.

A number of other provisions within the ECHR address fundamental freedoms with relevance to elections: Article 10 protects the freedom of expression, and Article 11 guarantees the freedoms of assembly and association.

More broadly, Article 13 states that everyone whose rights and freedoms have been violated under the ECHR must have an effective remedy at the national level. At the supranational level, the European Court of Human Rights (ECtHR) reviews applications concerning alleged breaches by states of human rights provisions as set out in the ECHR and its protocols. A number of ECtHR decisions address issues pertinent to elections, including suffrage rights and the freedoms of association, assembly, and expression. Of relevance to issues of electoral security are

several ECtHR judgments that consider the role of law enforcement during an election, particularly in the context of public assembly.¹⁰

Other supplemental documents identify a series of good practices in the holding of genuine democratic elections in line with regional and international standards. A primary source of such guidance is the Council of Europe's European Commission for Democracy through Law (Venice Commission), an advisory body on constitutional matters comprising 61 member states, 51 of which are OSCE participating States.

Of particular relevance are the Venice Commission's Code of Good Practice in Electoral Matters and Code of Good Practice for Referendums, which provide guidance on key aspects of these processes.¹¹ The Explanatory Notes to the Code of Good Practice in Electoral Matters (paragraphs 112-113) offers specific guidance on the role of security providers in and around polling stations on election day. It notes the need for electoral legislation to provide for situations and criteria for intervention by security forces in the event of a disturbance and stipulates mechanisms through which election officials may request such assistance.

Other regional organizations have also developed instruments pertaining to the conduct of democratic elections (such as the Organization of American States, which includes two OSCE participating States), some of which include provisions related to electoral security.

The Commonwealth of Independent States, all 11 members of which are OSCE participating States, established legal obligations in the field of democratic elections through its 2002 Convention on Standards of Democratic Elections, Electoral Rights and Freedoms. The Convention notes the need to protect the rights and freedoms of those taking part in elections and of holding individuals who impede citizens in the exercise of their electoral rights accountable for their actions.

Article 3(5) of the Inter-parliamentary Union's Declaration on Criteria for Free and Fair Elections states that "the right of candidates to security with respect to their lives and property shall be recognized and protected". In addition, Article 4(8) of the Declaration provides that "states should take the necessary measures to

10 See ECtHR final judgments: **Navalnyy and Yashin v. Russia** (20/04/2015) concerns an arrest and conviction in connection with an unauthorized demonstration; **Kasparov and Others v. Russia** (17/02/2014) relates to the imposition of an administrative fine for participation in an unauthorized assembly; and **Rekveniy v. Hungary** (20/05/1999) concerns restrictions on participation in political activities by the military, police, and security forces.

11 See the Venice Commission's **Code of Good Practice in Electoral Matters**, 2002, and the **Code of Good Practice on Referendums**, 2007.

ensure that parties, candidates and supporters enjoy equal security, and that state authorities take the necessary steps to prevent electoral violence”.

3.3 Obligations of the Government and Security Providers

With reference to security provisions applicable in an electoral context, the 1990 OSCE Copenhagen Document stresses that law enforcement should be under the control of, and accountable to, the relevant authorities. The 1991 OSCE Moscow Document says that states are to take all necessary measures to ensure that law enforcement personnel, when enforcing public order, act in the public interest. Thus, governments must respond to specific needs and pursue legitimate aims and also use ways and means commensurate with the circumstances. For law enforcement, this may also require a proactive approach and broader engagement with the public.

Paragraph 21.2 of the Moscow Document provides for the accountability of law enforcement, whereby acts are subject to judicial oversight, and law enforcement personnel are held accountable for such acts. Paragraph 25 commits OSCE participating States to ensure that their military and paramilitary forces, internal security and intelligence services, and the police are subject to the effective direction and control of the appropriate civil authorities; to maintain and, where necessary, strengthen executive control over the use of military and paramilitary forces and of the activities of the internal security and intelligence services and the police; and to take appropriate steps to create, wherever they do not already exist, and maintain effective arrangements for legislative supervision of all such forces, services, and activities.

The 1999 OSCE Charter for European Security emphasizes that police activities are carried out in respect of human rights, fundamental freedoms, and the rule of law, without any forms of discrimination, and in a manner that enjoys public confidence.¹² In addition, the 1994 OSCE Budapest Summit Document underscores that participating States consider the democratic political control of military, paramilitary, and internal security forces and of intelligence services and the police to be an indispensable element of stability and security.

Other OSCE documents reinforce the importance of the integrity and professionalism of law enforcement bodies. These include commitments on ensuring political

¹² See paragraphs 44-45 of the **1999 OSCE Istanbul Summit Document, Charter for European Security**.

neutrality of the armed forces, and they recognize the need for the police to enjoy public confidence and act in the interest of the public.¹³

3.4 Restrictions on the Use of Force

The use of force is a key consideration within the context of an election. It is understood as the physical imposition of restrictions on rights and freedoms, detentions and arrests, or the use of force in response to certain types of threats within legally permissible limits.

Particular emphasis is placed on the campaign period in relation to facilitating and protecting fundamental freedoms, including peaceful assembly. Public security providers are subject to legal regulations and, as stipulated by international standards, should be authorized to use force only when required under conditions established in legislation as reasonable and proportionate.

The use of force must be considered an exceptional measure, not to be executed arbitrarily. It should be proportionate to the threat, minimizing damage and injury, and used only to the extent required to achieve a legitimate objective. National legislation should clearly establish circumstances justifying its use. This includes providing adequate advance notice and using only the level of force needed to deal with various threats. Authorities should develop a range of responses to enable a differentiated and proportional use of force.

International standards provide guidance regarding a range of potential situations that may arise throughout the course of an election. This includes the use of force to disperse violent and non-violent unlawful assemblies in the context of civil unrest, as well as during emergency situations. Public security providers should avoid the use of force in the event of unlawful though non-violent assemblies or limit its use to a minimum.¹⁴

International guidance through the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provides that “[i]n the dispersal of assemblies that are unlawful but nonviolent, law enforcement officials shall avoid the use

13 See Decision No. 9 of the 2001 OSCE Bucharest Ministerial Council and the 2006 OSCE Brussels Ministerial Council Decision. Also see the *Guidelines on Freedom of Peaceful Assembly*, 2nd Ed., OSCE/ODIHR and Venice Commission, 2010.

14 Article 13 of the *UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, 1990, and paragraph 7 of the Council of Europe’s *European Code of Police Ethics*, 2001.

of force or, where that is not practicable, shall restrict such force to the minimum extent necessary¹⁵.

In dispersing violent assemblies and demonstrations, specific reference is made concerning firearms, i.e., that they may be used only when less dangerous measures prove ineffective and when there is an imminent threat of death or of serious injury. Firing indiscriminately into a violent crowd is never a legitimate or an acceptable method of dispersal.

If the force used is not authorized by law or is deemed excessive, law enforcement personnel and other individuals involved, including those connected with authorizing the use of force, should be subject to disciplinary action, as well as civil and criminal liability. Law enforcement personnel should also be held liable for failing to intervene where such intervention might have prevented other personnel from using excessive force.

3.5 Security in Emergency Situations

Extraordinary events impacting the conduct of an election may occur and necessitate action by security providers. Such aspects could include large-scale or wide-impact incidents of a criminal, insurgent, or terrorist nature; outbreaks of violence; public health emergencies; or natural disasters. In some cases, this could result in the declaration of a state of emergency, which may be instituted at the local, regional, or national level depending on the specific threat and response. Such a declaration permits the government to suspend or alter certain functions within the branches of government for a period of time and to take proactive actions or implement response procedures depending on the identified emergency.

Appropriate and proportionate heightened security measures may be instituted in response to emergency security situations with a view to restoring or maintaining public order. In doing so, international obligations and standards set out that limitations of fundamental rights and freedoms during a state of emergency can be justified only by strict and exceptional necessity in light of a grave and imminent threat.

Article 4 of the ICCPR and Article 15 of the ECHR stipulate that in times of war or public emergency threatening the life of the nation, states may take measures derogating from their obligation to guarantee rights and freedoms under those instruments, including the freedoms of movement, association, assembly, and expression, but only to the extent, both in provisions and in length of time, strictly required by the exigencies of the situation.

¹⁵ Provision 13 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

In addition, the 1985 Siracusa Principles on the Limitation and Derogation of Provisions in the ICCPR specify that derogations are justified “only when faced with a situation of exceptional and actual or imminent danger which threatens the life of the nation” and clarify that “internal conflict and unrest that do not constitute a grave and imminent threat to the life of the nation cannot justify derogations”. Paragraph 25.3 of the 1990 OSCE Copenhagen Document also provides that derogations should be limited to the “extent strictly required by the exigencies of the situation”.

While there are no specific international standards regarding the holding of elections under conditions of emergency rule, broader provisions under international law apply. International good practice notes that democratic elections are not possible without ensuring fundamental freedoms. In some cases, consideration could be given to reconsidering a declared state of emergency before the start of an election or alternatively to delaying an election if a democratic environment in which to hold the election is not possible. Under some circumstances, such options may not be possible. In a number of OSCE participating States, it is legally prohibited to hold elections during a state of emergency.

Balancing guarantees of fundamental rights and freedoms against security-driven restrictions and limitations is even more complex during an election. Such considerations are particularly relevant when any restrictions imposed on rights and freedoms could have a direct impact on the process and the results. In the context of an election, provisions could impact the environment through the following:

- Curtailing the freedom of assembly by limiting or prohibiting gatherings during the campaign period;
- Limiting freedom of expression by imposing constraints on the media;
- Limiting the freedom of movement inside and outside of certain designated areas;
- Enhancing the presence of security personnel, including around election-related facilities;
- Restricting or relocating voter registration locations and activities;
- Relocating polling stations, counting centres or tabulation centres.

Responses by public security providers to emergency situations during an election therefore necessitate a balance between ensuring safety and restoring public order and not imposing any unjustified restrictions on fundamental rights and freedoms. A state of emergency should not be used as a political tool to curtail election-related rights and freedoms.

Depending on the nature of the emergency, there may be a role for public security forces in cases necessitating a restriction, suspension, or postponement of an election. Any restrictions should be proportionate and have a legitimate aim, considering possible implications and ramifications for electoral stakeholders and activities.

3.6 Accountability of Law Enforcement and Other Security Personnel

Public security providers must respect and protect human dignity, maintain and uphold human rights, and be accountable to the community as a whole. With specific reference to elections, security personnel must not:

- abuse their authority or unduly interfere in an electoral process;
- display bias for or against any contestant or segment of the electoral population;
- obstruct campaign freedoms or voting rights;
- use investigatory powers as a tool for intimidation;
- carry out arbitrary arrests or detentions;
- use excessive force; or
- facilitate unequal or discriminatory enforcement of the law.

They should prevent and oppose any politically-targeted violations and should refrain from executing any potential unlawful actions. Any allegations of human rights violations by public security providers should be given sufficient attention, comprehensively addressed, and followed up by the respective authorities.

To avoid conflicts of interest, any alleged malfeasance by public security officials may necessitate investigation and follow-up by a separate independent authority. In particular, law enforcement personnel at all levels must be held responsible and accountable for any unlawful actions or omissions or for illegitimate orders to subordinates. Such accountability is crucial to maintaining trust and confidence in the respective institutions.



4.

ODIHR'S APPROACH TO SECURITY ISSUES WITHIN THE ELECTORAL CYCLE

4.1 General Considerations

An election-cycle approach is based on the understanding that an election is not an isolated one-day event. An electoral process comprises a series of interconnected elements and activities that occur before, during, and after election day. Each phase involves different challenges and demands. Such an approach is broadly recognized as an effective management tool utilized by a range of election stakeholders.

As part of its election observation methodology, ODIHR comprehensively assesses security aspects pertaining to an election throughout the process and measures put in place by authorities to ensure a safe and secure environment for the exercise and realization of electoral rights. The extent of analysis depends on the specific environment and context, as well as the format of an election-related activity.

4.2 The Needs Assessment Mission

As part of its initial assessment, ODIHR deploys a Needs Assessment Mission (NAM) comprising ODIHR experts who spend several days in a country some three months before a planned election. Its purpose is to assess whether to deploy an observation activity and, if so, to determine what type of activity best meets the identified needs.

Depending on the specific context, lines of inquiry and an initial assessment may include various aspects of electoral security. The NAM would consider the role of public security providers in the overall context of the election and highlight any concerns raised by stakeholders. It should identify where specific issues of electoral security would require further consideration and assessment by an observation mission. Key aspects and points of inquiry by the NAM could include the following:

- The overall security context and its influence on the electoral process;
- Security issues from previous elections that could affect stakeholder perceptions;
- The potential impact of the security environment on the campaign and election operations; and
- The level of confidence in the capabilities of security and law enforcement agencies and any concerns regarding their interference in the process.

4.3 The Observation Mission

Once deployed, an election observation mission's core team would focus on public security provisions and mechanisms within the electoral process at the national level depending on the specific context and election. All core team members should be aware of how security issues relate to their specific areas of focus, as well as work together to analyse how such factors would impact the overall assessments of the mission. Described below are potential areas of consideration by the various core team experts. Some aspects may require a joint assessment by several experts given the crosscutting nature of the issues and depending on the specific context.

Legal Analyst

The legal analyst may assess the extent to which laws and practices concerning electoral security meet OSCE commitments and other international obligations and standards for democratic elections, as well as good practice. In particular, this would require scrutiny in cases where security providers undertake a modified role during an election, such as in an emergency situation. Assessing aspects of constitutional and legal provisions, as well as their implementation by the relevant stakeholders, are central components. Other aspects may include assessing the role of law enforcement in addressing or investigating election-related offences within the broader process of electoral dispute resolution.

Political Analyst

The political analyst would liaise with parties, candidates, civil society, and citizen observer organizations to assess the perception and impact of security-related issues and actors pertaining to their electoral activities and the general environment. This would involve examining the overall security context of the election, as well as focusing on issues related to party or candidate registration and a range of activities surrounding a campaign. This may include assessing the role of security providers in facilitating or obstructing contestants' rights, such as to peaceful assembly, as well as other means of campaigning. Potential assessments may include examining the competence and demonstrated actions of security providers.

Election Analyst

The election analyst's primary interlocutor is the election management body. The election analyst would focus on the role of the election administration in any security-related issues directly pertaining to its activities. In particular, this may include provisions for security around the voter registration process and for election-day activities such as training of election administration staff, as well as processes and materials related to the voting, counting, tabulation, and transmission of results. Other issues could include any coordination by the election management body with security providers regarding election activities.

Media Analyst

The media analyst would follow the media and potentially identify any issues concerning the public perception of or concerns regarding security providers in an electoral context. The media analyst may also consider the impact of any security provisions or conduct by officials that impact the ability of contestants or media outlets to convey messages to the electorate in a balanced and impartial manner.

Long-term Observers

At the regional level, provisions for electoral security are assessed by long-term observers (LTOs). LTOs are primarily responsible for observing the various stages of an electoral process in the regions and providing the mission with a comprehensive understanding of events occurring throughout the country. Reporting on, and analysis of, aspects of security generally focus on regional security arrangements. This includes a regional assessment of the work of the election administration, the implementation of laws and regulations, and the campaign and political environments, and within this context, any role played by security providers, including law enforcement.

Short-term Observers

At the local level, short-term observers (STOs) are deployed to assess election-day proceedings, including in and around polling stations, as well as lower levels of the election administration. STOs are deployed to observe polling, counting, and tabulation procedures and to report their findings.

From a security perspective, STOs would focus on the activities, actions, and perception of security providers throughout the various stages of the election process around election day. The deployment of STOs to observe and report on election day processes at polling stations and tabulation centres provides the mission with an overall profile of activity throughout the country. This detailed information would assist the mission to draw conclusions based on collective experience and may highlight any issues of significance concerning the role and actions of security providers.

4.4 Follow-up

A core part of election observation is the recommendations offered by the mission to enhance the conduct of future elections. In this context, recommendations relate to issues identified pertaining to security within an election and how to improve aspects related to legislation and practice. Election observation is beneficial only if recommendations are given serious consideration and are effectively addressed. This has been recognized by all participating States, which committed themselves in the 1999 OSCE Istanbul Document “to follow up promptly ODIHR’s election assessments and recommendations”.¹⁶

16 See paragraph 25 of the **1999 Istanbul Summit Declaration**, as well as the **Handbook on the Follow-up of Electoral Recommendations**, OSCE/ODIHR, 2016.

Follow-up has become increasingly important to OSCE participating States, as well as to the work of ODIHR in supporting states in their efforts to improve their electoral processes. Follow-up and the various mechanisms available to support states in addressing ODIHR recommendations are considered effective instruments in addressing and supporting necessary improvements and possible solutions on the basis of international obligations and standards, as well as international good practice.

4.5 Citizen Observer Organizations

Citizen observer organizations play an important role in an electoral process and can enhance a positive and conducive electoral environment. Given the presence of citizen observers, they are in an advantageous position to undertake regular and long-term assessments of an electoral process.

ODIHR regularly liaises and exchanges information with citizen observer organizations both at an institutional level and through its observation activities. This can serve as an important source for exchanging information concerning the conduct of, and interactions with, security providers during an election.

Moreover, citizen observers may be in a position to undertake various activities within the electoral process, including monitoring any electoral violence and conducting public campaigns and advocacy programmes to promote peaceful elections. They may be able to assess the implementation of a code of conduct for security providers and the context and effectiveness of any training for security providers related to electoral security.



5.

ASSESSING SECURITY DURING THE DIFFERENT ELECTORAL STAGES

The following section provides a series of considerations for election observers, as well as lawmakers and public security providers, during the different stages of an election. After each topic, key considerations are presented to serve as a guide for potential lines of inquiry. The first section outlines general factors for consideration in the context of electoral security that are applicable to all stages of the electoral process.

5.1 General Considerations for Electoral Security

Ensuring rights and freedoms: The overall approach to electoral security should reflect the principle that the ultimate objective of ensuring a safe and secure electoral environment is not to impose limitations, but to

ensure that fundamental rights are not undermined and that they can be freely exercised. Security concerns should not be misused as justification for unduly restricting freedoms.

Context and environment: In planning and implementing activities, consideration should be given to the context in which an election takes place, the overall political and social environment, as well as the potential impact of the threats associated with any sources of insecurity. Elections conducted in post-conflict conditions or under other security challenges entail additional requirements as compared to elections conducted in more stable environments.

Types of threats: In designing policies and responses to potential insecurity during an election, public security forces should consider various types of both real and potential threats, vulnerabilities of the process, and their possible impact. There may be risks to stakeholders, events, materials, and facilities in the form of threats or violence or other interference with electoral rights and freedoms, including cyberthreats. Sufficient response mechanisms should be developed in cases where risk mitigation may not be fully successful.

Stakeholder coordination: Numerous actors are typically involved in organizing an election and may have a direct and varying role in providing security, including security authorities, election management bodies, election dispute resolution bodies, media, civil society, and other authorities indirectly linked to the process. Awareness of, and consultation with, such stakeholders, understanding their roles, and consistent efforts on the part of public security providers to work in close collaboration can contribute to the overall success of organizing an election.

Marginalized and Vulnerable groups: Conscious efforts should be undertaken and policies implemented to safeguard the rights of marginalized and vulnerable groups to ensure their free and full participation in an election. Targeted strategies designed to address the specific risks associated with these groups should be explicitly addressed in operational principles and planning, with particular attention paid to circumstances of heightened political tension, within a post-conflict environment, or special circumstances that may endanger the realization of rights and freedoms in an electoral context.

Public service culture: Activities undertaken by public security providers during an election should be construed as a public service and be guided by the interests of public order and the protection of fundamental

rights and freedoms. The public-service culture in the delivery of security services should be promoted as an approach conducive to enhancing public confidence and to facilitating interaction and information exchange between electoral stakeholders and the security services.

5.2 Pre-electoral Period

The pre-electoral period typically covers the period from the announcement of an election, or even earlier with certain electoral preparations, until the end of the campaign and the start of the voting process. Security-related aspects to consider could include the comprehensiveness of the legal framework, the extent of strategic and operational planning, and the initiation of any training activities. In this period, stages of the electoral process to consider would generally include voter and candidate registration, logistical preparations, and the election campaign.

Legal Framework

Legal provisions should cover all election-related issues comprehensively. This includes clearly defining the rights, duties, and responsibilities of stakeholders; safeguarding equality and fundamental rights and freedoms; guaranteeing the independence of the election management body and judiciary; mandating the neutrality of public security providers; and establishing transparency and accountability in the process.

The period ahead of an election should be an opportunity for authorities to review and amend legislation, as necessary, to bring it into line with OSCE commitments and other international obligations and standards for democratic elections. However, international good practice suggests that any substantial changes to an electoral legal framework should be adopted not less than one year prior to an election or should not be applicable for at least one year. It is important to note that legal frameworks based on equality and non-discrimination can in and of themselves be a bulwark against insecurity, whereas weak and unequal legal frameworks could be a source of insecurity.

Legal provisions related to electoral security should include specific regulations pertaining to the rights, obligations, and responsibilities of public security providers during an election, with specific emphasis on the role of law enforcement. This could include provisions on suffrage rights of individuals who are part of public security services (e.g. high-ranking officials) or other institutions involved in the electoral process. It may also include provisions to avoid a conflict of interest, while not imposing unreasonable restrictions on suffrage rights.

Legislation should clearly establish the role and scope of involvement of security providers in the electoral process. This should emphasize the principles of neutrality, proportionality, and non-discrimination in their work and should stipulate accountability mechanisms. To enable public security providers to effectively carry out their duties and ensure a more secure environment, the law should provide for a broad range of election-related offences with precise definitions. Proportionate and dissuasive administrative and criminal sanctions for such offences should also be established. Laws should be clear about the consequences for public security providers when they do not follow the law.

If all or part of a country's territory is under a declared state of emergency, the legal framework for states of emergency may be in effect during the election. This may include special lawmaking and decision-making powers to address the exigencies of the emergency. Public security providers should refrain from applying any emergency laws or decisions that violate rights and fundamental freedoms of electoral stakeholders.

- ➔ Does the legal framework clearly stipulate the rights, duties, and responsibilities of public security providers during an electoral process?
- ➔ Does the legal framework contain explicit requirements for professional conduct by public security providers, including respect for principles of neutrality, equal treatment, and non-discrimination?
- ➔ Does the law establish a full range of election-related offences, with precise definitions, and create an effective basis for enforcement by providing for proportional and dissuasive sanctions for infringements?
- ➔ Have laws on states of emergency come into play or been enacted? If so, what is the impact on the electoral process or environment, and have they been used by the authorities or security providers to unduly curtail electoral rights and freedoms?

Strategic and Operational Planning

This is an important stage for public security forces to coordinate their efforts, formulate policies, and plan their activities within the electoral cycle. As the electoral management body is often the lead institution responsible for the electoral process, security providers should include its representatives in any planning in line with the legal framework and vice versa.

Comprehensive strategic planning carried out in the pre-electoral period could include a risk assessment and analysis of security-related needs in consultation with the election management body and other authorities involved in organizing an

election. A clear delineation of responsibilities should be established, as should reporting lines and chains of command that coincide with assigned responsibilities.

Example: Pre-election Coordination between the Election Management Body and Law Enforcement

Ahead of parliamentary elections in one OSCE participating State, a series of mechanisms were introduced to enhance coordination between the election management body and the Ministry of Internal Affairs. The initiatives included signing a memorandum of understanding, holding coordination meetings, and developing and delivering a specific training module on electoral security.

Aspects of the training module focused on effective communication between the election administration and law enforcement agencies for providing security and on mechanisms to address risk management and to ensure an unhindered electoral process. The training was delivered at a workshop involving stakeholders representing the security services, the election administration, and civil society. The module was also integrated within the training programme for lower-level election staff ahead of the elections.

Security planning should also include the identification of vulnerabilities and insecurities, as well as the identification of potential early warning signs. Security planning may benefit from a review of lessons learned from past elections and an analysis of past security incidents and patterns of insecurity. While it is critical to plan at the central level, planning should also be decentralized to take into account local security conditions, and coordination mechanisms need to be established at all levels of government. On this basis, comprehensive security plans should be developed, including risk mitigation strategies and contingency response mechanisms and, where necessary, in coordination with other stakeholders, in particular the electoral authorities. As with other stakeholders, security providers may consider instituting a code of conduct for their personnel during an election.

Under certain circumstances, establishing a joint election coordination centre, particularly in states with challenging security situations, and specifically in the period leading up to election day, may serve to facilitate communication among stakeholders and coordinate responses. In establishing such a mechanism, however, consideration should be given to the national context and the perceived acceptability of such coordination.

Example: Establishing a Joint Operation Centre for Election Day

In one instance, given the heightened security environment, a joint operation centre was established prior to one country's parliamentary elections. Representatives included officials from the electoral management body and relevant ministries, the military, and the police. The centre served to coordinate information on election preparations from field offices of the respective institutions and to monitor security issues across the country.

The idea was to ensure the security of the elections by receiving timely information where election activities were taking place. Authorities received information from their respective lines of communication, and this was reconciled with other information and facilitated a quick and coordination response. The establishment of this structure was widely supported by electoral stakeholders as being an important mechanism for support provided by the various authorities involved.

Elections are usually the largest activity conducted by civilian authorities within a given country. Consultation and coordination with other stakeholders, including electoral contestants, media, civil society actors, and religious or traditional leaders, in the establishment of security plans is encouraged. These stakeholders may have valuable input for security planning, which could serve to bolster public confidence in the government's security efforts.

Apart from operational activities, planning should also cover initiatives to ensure transparency in the work of public security providers at all stages of the electoral process and aim at achieve a positive public image. Context-specific public information campaigns, targeted outreach, and stakeholder dialogue are effective confidence-building measures that serve to allay citizen concerns about safety, potentially increase participation in the election, allow the work of security providers to be effectively monitored, and build trust in the integrity of the election. While security deployment plans should generally be transparent, it may be appropriate for certain aspects not to be shared or made publicly available to preserve the integrity and effectiveness of the measures.

- ➔ Did public security providers carry out a comprehensive risk analysis and strategic planning in preparation for an election, and did they do so in a coordinated manner?
- ➔ Was this analysis and planning conducted in co-ordination with the electoral management body?
- ➔ Did security planning cover initiatives aimed at ensuring transparency and building public confidence?

Operational and Professional Training

Effectively trained security personnel can contribute to a more secure and just environment and can also build public trust in the electoral process. Conversely, under-trained personnel can undermine security and overall trust in the process. The content of any training activities should be comprehensive and cover relevant strategic and operational aspects. It should establish a set of standards and principles on the rules of engagement for the management of public security, clearly outlining what would be considered an appropriate escalation of force and establishing consequences for non-compliance.

Example: International Support for Police Training Ahead of an Election

The OSCE through its field offices has supported a number of training activities aimed at enhancing the awareness of police roles and responsibilities during electoral processes. Ahead of elections in one OSCE participating State, the OSCE was supported by the EU in developing and conducting training courses for police officials that were aimed at building the capabilities of selected officials of all ranks dealing with the management of public order. Topics included operational planning, effective command and control, negotiation techniques in line with international standards, threat and risk assessment, use of information and intelligence, and media relations. Two guidebooks on police conduct, the use of force, and negotiation techniques in public order management were developed.

In line with international good practice, training could explicitly encourage democratic policing practices. This could be supported by the inclusion of topics or principles on international standards and good practice in security management, human rights, issues pertaining to vulnerable and marginalized groups, as well as principles of democratic accountability, neutrality, and professional and non-intimidating conduct throughout the stages of an election. Training topics could cover relevant aspects of the electoral legal framework, such as the rights and duties of different electoral stakeholders. Law enforcement personnel should also understand all stages of the electoral cycle and the corresponding security aspects and be made aware of various election-related offences, both administrative and criminal.

- ➡ Was comprehensive election-related training provided to public security personnel?
- ➡ If so, did the curriculum promote international standards, human rights, good practice, and democratic policing norms that are applicable during an election?

Voter Registration

Security providers may be requested to provide security for voters and election officials involved in the registration process, as well as for premises and materials. This should safeguard voter registration activities and the exercise of universal suffrage by ensuring that threats, risks, or electoral malfeasance do not prevent voters from registering. Different tasks may be envisaged depending on the mechanisms of voter registration. In addition, given the increasing use of electronic voter registration systems, security providers may be required to support the integrity of the systems and the data therein.

Considerations for Electronic Systems Used in Elections

Aspects of electoral processes supported by electronic systems may include voter registration, voting, counting, and results tabulation, as well as systems to manage administrative aspects, including candidate registration and staffing. In addition, websites and portals are often used to convey a variety of information to stakeholders. Such systems may enhance the efficiency, transparency, and inclusiveness of the electoral process.

Increasingly, there are concerns over potential and real threats to such components that could threaten the integrity of the electoral process. Past examples have demonstrated the impact of cyberattacks on systems used in elections.

A key aspect of consideration by authorities is to ensure that systems (hardware, software, and data) remain secure against any threats. In some cases, election management bodies or other responsible institutions may seek support from specialized security agencies or private companies to secure their infrastructure. Different strategies may be employed, including risk assessments, security measures, and contingency plans to mitigate threats and vulnerabilities to the system due to either technological or human factors. Any attempted or actual breaches in the integrity of a system should be reported to law enforcement.

Security providers may also be required to ensure that freedom of movement can be exercised by voters. This may include situations within a territory where internal security or checkpoints exist or at an external border crossing, which may create real or perceived impediments to the ability of voters to register and vote. This is particularly important to enable freedom of movement and facilitate the participation of IDPs and returning refugees in post-conflict environments, where voter identification may be a challenge.

Some security providers may be responsible for overseeing components of voter registration in their own structures, including for police, conscripts, and military personnel.¹⁷ In supporting registration activities, public security providers should

¹⁷ See pp. 39-40 of the *Handbook for the Observation of Voter Registration*, OSCE/ODIHR, 2015.

focus on facilitating voter registration and law enforcement may be required to prevent or respond to irregularities, such as multiple registration, pressure on voters, or undue removals from electoral registers.

- ➔ Did public security providers effectively support voter registration processes by providing security for voters, premises, officials, and materials, where necessary?
- ➔ Did public security providers effectively contribute to ensuring freedom of movement and the ability of voters to register?

Candidate Registration

Legislation generally requires potential contestants to register for an election. Provisions may also necessitate a party to register or submit its membership lists ahead of registering specific candidates. The registration of candidates to participate in an election may require the fulfilment of certain criteria, including submitting supporting signatures from voters or financial deposits. In some cases, these processes may present hurdles for potential contestants and impact their ability to fully participate in an election and lead to possible tension and expressions of discontent.

Public security providers should aim to maintain a secure environment for the registration process and contribute to an environment in which contestants are treated fairly and can reach supporters, conduct party congresses, and gather support signatures or registration documents as part of the registration process. Other concerns may include potential misuse of authority by security officials related to direct or indirect harassment, intimidation of stakeholders, and potential detention or arrest for political purposes.

- ➔ Did public security providers react in a timely, effective, and impartial manner to any potential threats related to candidate registration?
- ➔ Were any prospective candidates prevented from participating due to being detained or subject to administrative sanctions or arrest?

Electoral Campaign

Democratic electoral processes should be based on equal and fair opportunities for all contestants and their supporters to campaign in an environment free from intimidation and obstruction. Citizens should be able to take part (or not take part) in campaign events in full freedom and feel safe in the exercise of their right to political participation.

To help ensure a safe environment, public security providers should maintain an adequate level of overall security during campaign activities organized by parties and candidates, as well as the personal security of those attending meetings and rallies. This means not only that security should be maintained, but also that the presence of security officials should not be considered overbearing or intimidating.

Public security providers should permit campaigners to freely distribute campaign materials or speak to voters in public places; free speech should only be restricted on an exceptional basis, when strictly justified, such as through measures to address manifestations of hate speech during campaign activities, particularly when they may incite violence.

Hate Speech during a Campaign

Hate speech commonly refers to forms of expression that are motivated by, demonstrate, or encourage hostility towards a group or an individual because of their membership of that group. Within an election campaign, this may emerge through statements or comments issued by party representatives, candidates, or their supporters or through the media in an attempt to exploit or incite fears and prejudices among the electorate.

OSCE participating States acknowledge the seriousness of hate speech and the threat it poses to security, which may extend to conflict and violence on a wider scale.¹⁸ States differ as to which forms of expression constitute crimes. Direct and immediate threats of violence, as well as incitement to violence, are crimes in all OSCE participating States. Beyond this, there is no consensus as to what other forms of speech, if any, should be criminalized.

There is a significant challenge to identifying and reacting to what may be considered hate speech according to national legislation and international standards and obligations. The balance is between potentially restricting freedom of expression for the protection of other rights versus allowing legitimate and permissible opinions and views.

Imposing restrictions on freedom of expression is generally discouraged in a democratic society, and circumstances become more challenging in the context of an election when the environment is politically intense and a plurality of views is encouraged, which may serve as an opportunity to make provocative statements. Whether statements are considered hate speech or not may be unclear; however, incitement to violence and threats of violence are clearly considered electoral violence under commonly accepted definitions.

Security at demonstrations and rallies should be managed in an inconspicuous manner and with restraint, with a focus on the safety of the organizers and participants, to prevent any undue restrictions on the rights of peaceful assembly.¹⁹ In

18 Decision No. 6 of the 2002 OSCE Porto Ministerial Council.

19 Paragraph 155 of the Explanatory Notes to the Guidelines on Freedom of Peaceful Assembly, 2nd Ed.

providing security for campaign events, security providers should act neutrally and impartially and prevent intimidation by others. Conduct needs to instil confidence among stakeholders and encourage individuals seeking protection and reporting misconduct, whereas any real or perceived intimidation may have a negative impact on trust and confidence in the process.

Rules for the organization of campaign events should be permissive rather than restrictive and should be applied equally, with an emphasis on notification of activities over approval.²⁰ Should legislation require the approval of the authorities to hold campaign activities, it should be timely, applied equally, and should not impede campaign programmes or activities.

Example: Co-ordination during Campaign Activities

In one OSCE participating State, ahead of parliamentary elections, security officials convened regular meetings throughout the campaign period to which representatives of political parties involved in the election were invited. Security officials conveyed relevant information on their preparations around and on election day.

In addition, parties conveyed information concerning the date, time, and place of planned campaign activities given the limited opportunities available due to time and venue constraints. Security authorities did not impose any schedules or restrictions, but simply worked to co-ordinate with the parties to ensure the fair and equitable use of public venues.

Public security providers should react to any calls for, or outbreaks of, violence, which may be intentionally provoked to destabilize the situation or disrupt specific campaign activities. In case the use of force is required, it should be used appropriately, proportionately, and in a targeted manner, in accordance with the law.

Tension during a campaign may develop as a result of instances of real or perceived misuse of state resources or an unfair distribution of, or unequal access to, public resources made available during an election. This may include public venues for campaign events, mechanisms for the distribution of campaign materials, or means of communication and transportation. Public security providers should be aware of these aspects in a particular election and possible sources of tension.

- ➡ Did public security providers ensure adequate security during campaign activities?
- ➡ Did public security providers co-ordinate effectively and efficiently with the election authorities?
- ➡ Did public security providers carry out their tasks in a neutral and unbiased way?

20 See paragraphs 2.1-2.4 of the Guidelines on Freedom of Peaceful Assembly, 2nd Ed. Also see the **Handbook on Monitoring Freedom of Peaceful Assembly, OSCE/ODIHR, 2011**.

- ➔ Did public security providers interfere in any way in the organization or holding of any campaign activities? If so, was such action justified?
- ➔ Was security managed peacefully and with restraint during demonstrations and campaign events without undue restrictions placed on freedoms of assembly and expression?
- ➔ Were any campaign events, demonstrations, or other activities prohibited or obstructed by the authorities or security providers?
- ➔ Were any individuals or groups subject to threats or intimidation by state authorities or security providers, including arbitrary investigation, arrest, or detention?
- ➔ Did public security providers act in a non-intimidating manner and take the necessary action to prevent or stop election-related intimidation, coercion, or undue influence?
- ➔ Were measures and force used in response to irregularities appropriate and proportionate to the risks and threats?
- ➔ Were appropriate measures and follow-up employed in response to tensions stemming from unequal or unfair access to public resources?
- ➔ Did public security providers apply and enforce the law equally and without discrimination in relation to electoral stakeholders?

Media

Media play a vital role during a campaign in serving as the primary platform for contestants to transmit their messages to the electorate and for the public to receive campaign coverage and information, as well as broader information on the process. During a campaign, media may come under increased pressure to meet demands for access to, and coverage of, contestants while complying with commercial and editorial policies and the legal requirements enforced by regulators.

Media outlets and journalists may become targets of threats, violence, prosecution, or civil lawsuits due to their reporting on various components of an election, thereby requiring a heightened level of protection. Freedom of expression should be protected, and no unreasonable restrictions should be placed on the rights of contestants or other electoral participants to freely express their views and opinions in the mass media.²¹

- ➔ Were the media able to work freely during the election without censorship, obstruction, or interference, and were they effectively and equally safeguarded?

21 See, among others, Article 19 of the UDHR; Article 19 of the ICCPR; Article 10 of the ECHR; paragraph 9.1 of the OSCE Copenhagen Document; paragraph 26.1 of the 1991 OSCE Moscow Document; paragraph 26 of the 1999 OSCE Istanbul Summit Declaration, as well as paragraph I.2 of the Council of Europe's Committee of Ministers Recommendation Rec(2007)15.

5.3 Electoral Period

The electoral period is considered to encompass election-day activities, including voting, counting, and tabulation. Certain aspects of the pre-electoral period, such as the campaign, may overlap with the electoral period, e.g., when there is early voting.

Election-Day Security

Considerations for public security providers for election day include activities occurring in and around polling stations, as well as other locations and events involving a range of stakeholders. The role of public security providers during this stage focuses on ensuring the security of voters and personnel involved in the administration of voting and counting and ensuring the security of election premises and materials.

The storage of election materials at polling stations may be a key operational consideration for election day. In some cases, assistance may be requested to provide security during the delivery and securing of ballots and other sensitive election materials. Materials can be categorized depending on the items and context: sensitive (ballots, results forms, voter lists, ballot stamps, indelible ink, and voting equipment) and non-sensitive (empty ballot boxes, polling screens, stationary, and furniture).

Legislation often explicitly provides for the presence of security officials around polling stations and administrative buildings throughout election day and outlines their duties. In most cases, the presence of security officials is limited to the area outside polling stations and the immediate surrounding area to ensure a safe and secure environment. Whether a police presence in relation to polling or counting may be a legal requirement in some cases or prohibited in others, the situation must be clearly understood by all stakeholders.

Good practice notes that a police presence inside polling stations is generally prohibited and envisaged only upon the request of the respective election official to restore order or react to specific incidents. This may include disruption or electoral malpractice in the voting process by voters, polling staff, observers, candidates or party agents, or unauthorized individuals. However, legislation may also envisage a role for security personnel in connection with the voting process itself, such as assistance with queue management. In some cases, police will be required to assist with voting in special circumstances, such as in prisons and by public security forces.

In general, the legislation in OSCE participating States varies considerably on the extent provisions concern security-related roles and responsibilities around election day, with most focusing on the role of the police at polling stations. The following points are extractions from various OSCE participating States pertaining to security in and around polling stations:

- The polling station chairperson is generally vested with the responsibility to ensure that peace and order are maintained in voting premises throughout election day.
- The chairperson may seek the assistance of the police to ensure peace and order and for the unimpeded conduct of voting and counting.
- If requested, the police should react on request, and as per instructions, within the scope of their legally vested authority.
- In such cases, voting should be suspended while the police are present inside the polling station.
- Once order has been restored, the police should be required to leave the polling station to allow voting to proceed.
- All such actions should be recorded in the polling station records.
- The location of polling stations and the surrounding environment should be policed by the authorities to the extent necessary as dictated by local conditions.
- Police, upon a request from polling officials, may also be asked to remove any unauthorised individuals from within and around polling centres.
- Police may be requested to assist polling officials to remove any promotional materials from a polling station or polling centre.

Similar security provisions may also be required during the counting process, when the security of premises, staff, and materials should be ensured. The transportation to, and storage of, election materials within the election administration or counting centres (regional or national) also commonly require the presence of, and protection by, public security officials. The security of election management officials and their premises should be regarded as a priority, in particular throughout election day and during the tabulation of results.

Beyond potential protection rendered to election administration personnel, the security of contestants and voters should also be considered. Appropriate security measures should be envisaged equally for party and campaign headquarters and potentially for other offices, as well as places of public gathering. Efforts to ensure the security of voters should include measures aimed at guaranteeing the freedom of movement to ensure that voters can safely travel to and from polling stations,

in particular in post-conflict environments, as well as to prevent pressure on, and intimidation of, voters.

- ➔ Were security officials required to deliver or guard over sensitive voting materials and equipment?
- ➔ If yes, were they sufficiently secured during the voting, counting, and tabulation processes?
- ➔ Are the presence and role of security officials for election day prescribed by law?
- ➔ Were security personnel present at and around polling stations on election day, and, if so, was their behaviour non-intimidating, authorized, and appropriate?
- ➔ Did public security providers effectively ensure security in the work of the election administration, enabling it to operate in a safe environment?
- ➔ Were public security forces present during the counting of votes? Was their presence required and justified, and was their conduct appropriate?
- ➔ Did security providers sufficiently undertake provisions for special voting such as in prisons and by public security personnel?
- ➔ Were appropriate security measures put in place to ensure the security and rights and freedoms of candidates, their supporters, and voters throughout election day?

Electoral Offenses and Irregularities

Various mechanisms may be established to identify and follow up on election-related offenses and irregularities. Such mechanisms could include reporting channels for election management bodies, state institutions, media, and civil society organizations. Security providers will often have their own mechanisms through which the public can submit security-related complaints. It is good practice for such mechanisms to utilize online reporting and mapping mechanisms to facilitate identification, pattern analysis, and profiles of security incidents and irregularities. This can support law enforcement and other authorities in any potential investigation and prosecution. It may also serve to foster transparency in the security of the electoral process and the work of law enforcement.

Example: Co-ordination among Institutions on Electoral Preparation and Addressing Electoral Fraud

In one OSCE participating State, the election management body took a proactive approach to working with law enforcement on election issues. Action included developing professional practice on policing during an election and a guidance manual in co-ordination with the respective police forces. This was supplemented with pocket guides issued to police officers during the election to help them understand and enforce the law concerning elections. The election management body also worked with the police to host annual training seminars for police personnel

working on electoral fraud that were attended by electoral staff and representatives of political parties.

In addition, the election management body worked with law enforcement to support efforts on the identification, investigation, and prosecution of cases involving electoral fraud. This included collecting and publishing data and analysis regarding cases of alleged electoral fraud reported to law enforcement. The data was comprehensive and publicly available and broken down by the types of reported cases (campaign, nomination, registration, voting, and administration) and the outcomes of the cases.

A distinction should be made between issues that are purely security-related (i.e., violence involving candidates) versus complaints alleging fraud or malpractice that could incite insecurity or violence but that are not within the purview of election management bodies. In most countries, election fraud is a criminal activity and is a matter for law enforcement and the criminal justice system. Law enforcement should be prepared to act swiftly in response to allegations of electoral fraud when called upon by the relevant bodies responsible for electoral complaints (election commissions, election courts, special tribunals, and the judiciary).

In addition, physical violence and threats, interference with campaigning, destruction of election materials, misuse of state resources, intimidation and harassment of electoral actors, and vote-buying are among possible violations that would require the involvement of, and response by, public security providers with a view to preventing or addressing violations and to holding individuals accountable. In some cases, the use of intolerant rhetoric, extending to hate speech, including online and through social media, may also require investigation and follow-up.

Law enforcement should ensure that comprehensive investigations are undertaken of all security-related incidents and electoral misconduct. They should also exercise their powers to arrest and detain alleged perpetrators in an appropriate manner and submit such cases for public prosecution or administrative liability. As a transparency and confidence-building measure, public security providers should collect and make publicly available, on a timely and ongoing basis, information on incidents of electoral violence and misconduct. Transparency also extends to the handling of election-related cases by electoral and judicial institutions, which should publicize information about how complaints are handled and about the legal process for dealing with election-related security incidents.

➡ Did public security providers act in a timely and effective manner in response to any identified or reported electoral fraud, and did they carry out the necessary investigations and arrests?

Observer Access

Election observers, both citizen and international, should be able to carry out their activities without undue restrictions and interference, to move freely across the country, and to have unimpeded access to institutions and stakeholders to fulfil their tasks in the context of the election. Efforts by public security providers to ensure and enable a safe and secure environment should extend to observers and their work.

- ➔ Were election observers able to carry out their activities safely?
- ➔ Were election observers obstructed in any way by security officials in the conduct of their activities?

5.4 Post-electoral Period

During the post-electoral period, preliminary and final election results are tabulated and announced, complaints and appeals may be lodged and adjudicated, and newly elected officials installed in office. This stage may be particularly sensitive as the outcome of an election becomes known, and not everyone may be satisfied with the process or the results.

Developments after Election Day

While legislation generally establishes deadlines to finalize election results and adjudicate disputes, developments related to the electoral process may extend for a period of time, especially considering possible acts of protest related to election outcomes and pending complaints and appeals. This period may be critical where reasonable legal deadlines for the finalization of disputes and the announcement of results are not established or adhered to, the election management body or courts are not (or are not perceived to be) independent and impartial, or election results are not subject to judicial review.

Post-election developments require continuous attention and involvement by the relevant bodies, including public security providers, to ensure the integrity of the process. A priority should be to provide for the physical security of the election administration and relevant judicial premises and officials to enable the completion of the tabulation and announcement of results in line with legal time frames. Similarly, security during the adjudication of possible complaints and appeals needs to be ensured by instituting measures both to protect the right of contestants and voters to effective and timely redress and to enable election commissions and courts to perform their duties unhindered, without any pressure or interference. This may require the securing and retention of sensitive election materials. Failure to do so

could jeopardize the ability of contestants to pursue effective legal redress. Given requirements in some states for final election results to be certified by a court or parliament, security measures may need to extend to these bodies as well.

In an election characterized by a low level of public confidence, the post-electoral period may include protests and demonstrations. As during the campaign period, the security of public gatherings needs to be managed without undue restrictions on the freedoms of assembly and expression while ensuring public order and preventing harassment, intimidation, or attacks. In line with established policing principles, security considerations should not be misused as a pretext to curtail fundamental rights and exert undue authority. In all cases, any use of force should be strictly necessary and proportional.

A final element in this period may include the distribution of mandates and the inauguration of elected officials. While in many cases these processes are technical and non-contentious, in some elections, lingering mistrust, refusal to accept electoral outcomes, or acts of resistance, may impede their completion.

Public security providers need to follow such developments and, in collaboration with other authorities, should aim to ensure that expressions of mistrust and dissatisfaction remain peaceful and that grievances can be safely addressed through formal legal channels or inclusive consultative mechanisms rather than through resistance and obstruction.

- ➔ Was a safe environment created for the election administration to enable it to finalize the tabulation and announcement of results in line with legal time frames and without interference, pressure, or intimidation?
- ➔ Were security measures instituted to protect the right of contestants and voters to seek and receive effective and timely legal redress?
- ➔ Did law enforcement properly investigate allegations of electoral malpractice, including fraud, in an efficient and impartial manner?
- ➔ Were election commissions and courts able to adjudicate any complaints and appeals unhindered, without pressure or interference?
- ➔ Was security during any post-election public gatherings and demonstrations managed without undue restrictions being imposed on the freedom of assembly?
- ➔ Did public security providers employ appropriate measures to manage discontent or non-acceptance of election results?

Post-election Review and Reform

Post-election reviews and lessons-learned exercises can serve as opportunities to draw lessons from the experiences of an electoral process by identifying good practices to be applied in subsequent elections and to identify shortcomings to be

addressed and avoided. A comprehensive performance analysis is a good practice and could be formally conducted by bodies involved in organizing and supporting the conduct of an election.

Public security providers could benefit from participating in a cross-institutional review, including with the election management body, and could contribute to post-election follow-up to recommendations made by different stakeholders and observer organizations. States have also recognized the value and importance of co-operative endeavours, including the sharing of information and expertise in the field of electoral legislation, administration, and observation to help to continue developing democratic institutions.

Post-election review of security-related issues is most effective if resulting actions contribute to reform and the improvement of regulation and practice. This could include changes to the legal framework or regulations and the utilization of lessons learned in security planning for future elections, training, and instructional strengthening, and further development of the professional capacities of public security providers. Any reforms should serve to improve future electoral security environments, create conditions in which election stakeholders can fully exercise their electoral rights and freedoms, and bring to justice those who undermine the electoral process.

- ➡ Did public security providers carry out a comprehensive post-election review and performance analysis with a view to introducing improvements to the management of security during future elections?
- ➡ Did a post-election review contribute to the reform of any regulation or practice?



6.

ODIHR AND MISSION SECURITY

6.1 Security Considerations for Election Observation

Election observation is a civilian activity. Nevertheless, election observation may take place in a post-conflict environment as long as minimum conditions for effective observation are in place. This assumes the existence of a sufficiently secure environment that allows for an electoral process to be conducted, as well as for the free and unimpeded movement of election observers. If such conditions are not in place and guaranteed, then both the integrity of an election and the credibility of its assessment may be challenged.

ODIHR's observation activities comprehensively assess the electoral environment in line with OSCE commitments and other international obligations and standards, of which security is an essential component. To ensure credible and effective

election observation, a number of basic conditions underpinning ODIHR's observation methodology must be in place, including in politically sensitive or post-conflict environments. These conditions include:

- An official invitation to observe the electoral event from the relevant authorities allowing ODIHR sufficient time to prepare and deploy its observation activity;
- A secure environment in which observation can operate unhindered – the safety and security of observers during a mission is paramount;
- The ability to establish an observation mission within a time frame that permits long-term observation of all phases of an electoral process;
- The ability to meet with relevant authorities, candidates, and representatives of political parties, civil society, the media, and with other stakeholders without restrictions as required;
- The freedom to travel in all areas where an election is taking place, before, during, and after election day, without prior notification, restriction, or escort;
- Unimpeded access to all polling locations, election commissions, and tabulation centres.

The need for the respective authorities to establish these minimum conditions to enable meaningful observation is fundamental, and their applicability is not limited to ODIHR observation activities. Professional standards for international election observers are outlined in the Declaration of Principles for International Election Observation, commemorated at the UN in 2005 and globally endorsed by more than 50 organizations conducting election observation. Credible, effective, and professional election observation is undermined in the absence of these minimum conditions.

In addition, within a country there may exist situations of varying levels of security, which may include isolated or regional instances of insecurity. Such cases require consideration by an observation mission to determine the impact on its overall activities and assessment. In a broader context, the absence of a secure environment to conduct an election could imply that conditions to conduct meaningful election observation may also be insufficient.

6.2 Security Arrangements during ODIHR Election Missions

Security arrangements constitute an important prerequisite for any ODIHR election activity. While the host country is the primary guarantor of security, ODIHR ensures the safety of its personnel by developing and implementing a comprehensive security plan in co-operation with a state's public security structures.

As noted, prior to deploying an observation activity, ODIHR carries out a preliminary analysis of the overall security environment as part of its NAM. The NAM analyses the pre-electoral situation, including the security environment, and determines whether minimum conditions for effective election observation exist. In situations affected by conflict or other security concerns, the NAM may include a security expert, or ODIHR may undertake a separate security assessment to consider aspects of mission security.

The deployment of any observation activity is preceded by a comprehensive security risk assessment (SRA). The SRA assesses existing vulnerabilities and security threats and outlines risk management measures to be taken during possible observation activities. The SRA forms the basis of a mission's security-related recommendations, including on the potential need to deploy a security expert, who would be responsible for the following:

- Monitoring the daily security situation across the area of observation and amending the SRA and security framework as necessary;
- Ensuring the safety and security of observers by developing and implementing a security and evacuation plan;
- Maintaining contact with relevant host-country authorities, primarily from law enforcement;
- Issuing security instructions and providing security briefings to all observers.

During an observation mission, the security expert may undertake field visits to determine potentially restricted areas and special security zones in which specific security provisions apply. In addition, information is gathered on conditions for passing any internal checkpoints and crossing areas that are inaccessible by observers for security or safety reasons (geography, infrastructure, or weather conditions).

Additional efforts are undertaken to provide LTOs and STOs with the necessary security information and to ensure comprehensive security arrangements. Prior to deployment, LTOs and STOs are briefed on the security situation for their areas of observation. Throughout the mission, the security expert keeps a security management team ready to respond to any potential emergency. In some cases, broader mission co-ordination mechanisms involving mission management may also be established. In situations posing a risk to observers, evacuation procedures can be initiated.

The security situation in a country may degrade during an observation activity. In response, through a collaborative decision-making process involving management from the mission and ODIHR, there may be an adjustment to mission activities,

including suspending, relocating, or ceasing operations. Such actions may directly impact observation efforts and the ability of the observation mission to undertake its assessment.

Example: Adjusting ODIHR Mission Activities for Security Reasons

Ahead of a referendum in one OSCE participating State, ODIHR deployed an observation mission to follow the referendum process. Based on the NAM recommendation, the format would have included the deployment of LTOs and STOs. However, due to the deteriorating security environment in the country after the start of the observation mission, ODIHR decided not to deploy STOs as initially recommended. In addition, several LTOs were redeployed to other locations deemed more secure. The mission continued to observe the referendum as a limited referendum observation mission.

All ODIHR observers are bound by a code of conduct that is applicable during observation activities. A number of provisions in the OSCE/ODIHR Code of Conduct relate to security, and one key principle provides that observers should not take unnecessary or undue risks, with personal safety overriding other considerations.

CODE OF CONDUCT FOR OSCE/ODIHR OBSERVERS

- ➔ Observers will maintain strict impartiality in the conduct of their duties and will, at no time, publicly express or exhibit 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 undertake their duties in an unobtrusive manner and will not interfere in the electoral process. Observers may raise questions with election officials and bring irregularities to their attention, but they must not give instructions or countermand their decisions.
- ➔ Observers will remain on duty throughout election day, including observation of the vote count and, if instructed, the next stage of tabulation.
- ➔ Observers will base all conclusions on their personal observations or on clear and convincing facts or evidence.
- ➔ Observers will not make any comments to the media on the electoral process or on the substance of their observations, and any unauthorized comment to the media will be limited to general information about the observation mission and the role of the observers.
- ➔ Observers will not take any unnecessary or undue risks. Each observer's personal safety overrides all other considerations.
- ➔ Observers will carry any prescribed identification issued by the host government or election commission and will identify themselves to any authority upon request.
- ➔ Observers will comply with all national laws and regulations.
- ➔ Observers will exhibit the highest levels of personal discretion and professional behaviour at all times.
- ➔ Observers will attend all required mission briefings and debriefings and adhere to the deployment plan and all other instructions provided by the OSCE/ODIHR Election Observation Mission.

