



Handbook for the Observation of Election Campaigns and Political Environments

Handbook for Observation of Election Campaigns and Political Environments

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Contents

Foreword	5
Introduction	8
1. Purpose of the Handbook	8
2. How to use this Handbook	9
CHAPTER I: OBLIGATIONS, COMMITMENTS and STANDARDS FOR GENUINE ELECTIONS and ELECTION CAMPAIGNS	12
1. International Obligations and Standards	13
a. UDHR, ICCPR and General Comments	13
b. Other UN Instruments	16
2. OSCE Commitments	18
a. The 1990 OSCE Copenhagen Document	18
b. Elections Standards and Principles in other OSCE Documents	20
3. Regional Instruments in the OSCE Area	22
4. Good Practice	24
CHAPTER II: POLITICAL CONTEXT and BACKGROUND	26
1. Assessment of Fundamental Freedoms	28
a. Freedom of Assembly	28
b. Freedom of Association	29
c. Freedom of Expression and Opinion	30
d. Freedom of Movement	32
e. Right to Liberty and Security of Person	32
2. Specific Circumstances	35
a. Elections During a State of Emergency	36
b. Political and Electoral Violence	37
3. Background Aspects	40
a. Political System and Composition of the (outgoing) Parliament and Government	40
b. Conduct of Previous Elections	40
c. Other Relevant Considerations	41
CHAPTER III: ELECTION CAMPAIGN	44
1. Assessment of the Campaign Environment	46
a. Respect for Fundamental Freedoms in the Election Campaign	47

b. Free and Fair Atmosphere for Campaigning	50
c. Equal Treatment and Equality of Opportunities	53
d. Misuse of Administrative Resources	54
e. Participation of Women, National Minorities and Persons with Disabilities in the Election Campaign	56
f. Other Relevant Considerations	60
i. Duration of Campaign Period	60
ii. Over-Regulation of the Campaign	61
iii. Post-Election Developments	62
2. Assessment of the Conduct of Campaign	63
a. Meetings with Electoral Contestants	64
i. Campaign Topics	65
ii. Campaign Methods	66
b. Meetings with Other Stakeholders	67
i. Civil Society Organizations, Experts and the Academic Community	67
ii. International Community	68
CHAPTER IV: LTOs' CAMPAIGN FINDINGS	70
1. Role of the LTO Co-ordinator in Observation of an Election Campaign	70
2. Communication with LTOs	71
3. Tasking and Guiding LTOs	73
4. Gathering and Summarizing LTOs' findings	75
a. LTO Weekly Reports	75
b. Incidents Reports	77
c. Rally Reports	79
d. Issue-based Reports and Campaign Forms	80
e. Weekly Summary Reports	81
f. LTO Final Reports	82
5. Campaign Allegations	82
a. Types of Allegations	83
b. Substantiating Allegations	83
ANNEX I – MATERIALS and SOURCES	85

Foreword

Elections are the cornerstone of democracy. They are complex processes of a political, legal and organizational nature, which take place in a wider political context of domestic and international developments. The political environment in which elections occur can have a significant or even decisive impact on their conduct and outcome. For elections to be genuinely democratic, a respect for fundamental freedoms and rights, both, during and outside of the legally defined election and campaign period is necessary. Moreover, equal conditions for fair competition and the voters' ability to make an informed choice from a plurality of political options are essential.

All OSCE's participating States have committed to hold democratic elections. In the landmark 1990 OSCE Copenhagen Document, they declared that, "the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government." Moreover, in the same document the participating States agreed on a wide range of human rights commitments specifying in unprecedented detail what is required if an election is to be considered genuinely democratic.

Election campaigns are an essential part of electoral processes, in which candidates compete for voter support. During election campaigns political actors energize society, invigorate and mobilize the electorate, but at the same time these are periods when fundamental freedoms are put to the test. Election campaigns provide an opportunity for all election stakeholders, including the authorities, political parties and voters, to demonstrate respect for fundamental freedoms and human rights. What happens during this specific time provides a yardstick by which the implementation of the OSCE election-related commitments can be measured. Observation of election campaigns and assessment of the political environment in which elections happen have been an integral part of election-related activities of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) since its establishment.

Election campaigns are multifaceted events and their comprehensive and systematic observation should include various elements. Notably, in addition to assessment of the respect for fundamental freedoms and human rights, robust observation of an election campaign and its environment should take into account the financial aspects of the campaign, as well as the participation, inclusion and treatment of traditionally underrepresented groups in political life such as, women, national minorities or persons with disabilities. While this Handbook offers basic tools for observation of election campaigns, it needs to be read in conjunction with other ODIHR election-related publications, such as

the handbooks for observation of campaign finance and women's participation in elections, as well as others referenced in Annex I. Importantly, the Handbook only touches upon the online conduct of election campaigns. This critical aspect is discussed in detail in ODIHR's *Guidelines for Observation of Election Campaigns on Social Networks*, released together with this publication.

Matteo Mecacci
ODIHR Director

LIST of ACRONYMS

CEDAW - Elimination of all Forms of Discrimination Against Women

CIS - Commonwealth of Independent States

CRPD - Convention on the Rights of Persons with Disabilities

ECHR - European Convention on Human Rights

EMBs - Election Management Bodies

EU - European Union

HRC - Human Rights Council

ICCPR - International Covenant on Civil and Political Rights

ICERD - International Convention on the Elimination of All Forms of Racial Discrimination

LTO Co-ordinator - Long-Term Observers Co-ordinator

LTOs - Long-Term Observers

NAM - Needs Assessment Mission

ODIHR - Office for Democratic Institutions and Human Rights

OSCE - Organization for Security and Co-operation in Europe

UDHR - Universal Declaration of Human Rights

UNCAC - United Nations Convention against Corruption

UPR - Universal Periodic Review

Introduction

1. Purpose of the Handbook

The Handbook sets out the ODIHR approach to observation and assessment of election campaigns and their political environments. It also aims to streamline and further develop the existing methodology for election observation, which has been honed by observing elections throughout the OSCE region for 30 years and is widely recognized for its comprehensiveness and systematic approach.¹

The methodology elaborated in the Handbook applies to all types of ODIHR election-related activities, including Election Observation Missions, Limited Election Observation Missions, Election Assessment Missions and Election Expert Teams.² Other interested international and citizen observer organizations can also benefit from the Handbook, as well OSCE participating States that may be considering improvements to legislation and practices around election campaigns.

Although the Handbook is intended as a reference document for all ODIHR election experts, Political Analysts who have the overall responsibility for assessing the political context and election campaign environment will benefit from it most directly. Depending on the size and scope of the election observation activity, Political Analysts may rely on findings from Long-Term Observers (LTOs) – who are deployed throughout a country for several weeks – to help facilitate a countrywide assessment. The Handbook aims to also support the work of LTOs and Long-Term Observer Co-ordinators (LTO Co-ordinators) in the collection of campaign observation findings from different parts of the country. Because of the multi-layered nature of election campaigns and the environment in which they take place, co-operation and co-ordination among mission analysts is essential – this is underlined throughout the chapters that follow. In particular, this concerns the Political Analyst and the Legal Analyst when assessing the respect of fundamental freedoms in the overall context or when examining campaign regulations, as well as the Political Analyst and the LTO Co-ordinator when assessing the overall conduct of the campaign across the different regions of the country.

Political Analysts have a vital role in the assessment of the political context and election campaigns. They are part of most ODIHR election observation missions and they have primary responsibility for the ‘Background and Political Context’ and the ‘Campaign Environment’ sections of mission reports. The multifaceted nature of election campaigns obliges Political Analysts to conduct broad and comprehensive research, yet they must remain structured and concise when reporting their findings. Their research is supplemented with meetings with a wide range of election stakeholders, with the aim of bolstering and substantiating

1 ODIHR is committed to regularly review and refine its election observation methodology in line with the relevant tasking by the OSCE participating States (Ministerial Council Decision 19/06). This publication has been developed on the basis of extra-budgetary contributions by OSCE participating States.

2 For more on this topic, see the [ODIHR Election Observation Handbook \(Sixth Edition\)](#).

their assessment of the election campaign environment. To analyse the more general situation of and the conditions for participation in campaigns, as both candidates and voters, by women, national minorities, persons with disabilities and youth, the Political Analyst must meet with representatives of these traditionally underrepresented groups. Lastly, the Political Analyst is responsible for drafting recommendations related to the conduct of the election campaign and/or the overall environment in which elections are held.

2. How to use this Handbook

The Handbook draws on relevant international obligations and standards for democratic elections, with an emphasis on OSCE commitments, as well as international good practice. It provides a general set of considerations for the assessment of the political background and of conditions necessary for the conduct of genuine, pluralistic election campaigns. The first chapter examines in detail some of the key international instruments to which OSCE participating States have committed.

The second chapter addresses the assessment of the political context in which elections are being held. OSCE commitments refer to broader processes and practices that require respect for democratic pluralism and human rights. Elections that procedurally meet some international standards, but are not pluralistic or are conducted in restrictive environments with little regard for human rights and fundamental freedoms are unlikely to be characterized as democratic and meet the genuineness standard.

The third chapter deals exclusively with the assessment and observation of the election campaign. Democratic elections cannot be held without a free exchange of ideas among contestants, and between contestants and voters. Accordingly, political pluralism and guarantees in law and practice of the freedoms of expression, assembly, association, movement and the right to liberty and security of the person are necessary prerequisites for genuinely democratic election campaigns. In addition to the internationally recognized political rights, the 1990 OSCE Copenhagen Document, to which all OSCE participating States have committed, provides further political guarantees for voters and contestants to enjoy a free and fair campaign environment, as well as equitable opportunities.

The last chapter provides some practical suggestions, mostly for the LTO Co-ordinator and the Political Analyst, on how to organize and consolidate extensive regional campaign findings. As election processes have their own characteristics and election campaigns are conducted with their own peculiarities, ODIHR election observation activities are deployed taking into account specific contexts and are designed to reflect these distinct elements. Given the unique nature of every election campaign, this chapter aims to provide basic guidance for the Political Analyst and the LTO Co-ordinator about how to incorporate regional observations and findings in a systematic and presentable manner, consistently throughout the reports. In addition to the recommended methods of co-operation between the Political Analyst and the LTO Co-ordinator and the suggested forms and instruments for gathering and summarizing LTO findings, core team members can utilize other tools that have sufficient levels of reliability, including online tools, for collecting regional campaign observations.



CHAPTER I

OBLIGATIONS, COMMITMENTS and STANDARDS for GENUINE ELECTIONS and ELECTION CAMPAIGNS

ODIHR observes and assesses different aspects of the election process, including the legal framework, voter and candidate rights, candidate registration, election administration and election day procedures, the campaign and media environment, party and campaign financing, as well as dispute resolution. The assessment is made in the overall political context within which elections take place and against international obligations, standards and commitments and national legislation.

Public international law includes obligations that are codified in treaties, such as the International Covenant on Civil and Political Rights (ICCPR), which legally bind their signatories. Declarations and political commitments, including the Universal Declaration of Human Rights (UDHR) or the 1990 OSCE Copenhagen Document, are politically binding mechanisms. Interpretive documents issued by treaty monitoring bodies, whether global in character, such as the United Nations Human Rights Committee, or regional, such as judgments of the European Court of Human Rights, clarify treaty obligations and have a highly authoritative character with a legal basis, even if they are not legally binding for states other than those involved in a case. These documents are further supplemented by other sources of what is often referred to as ‘soft law’ and good practice that include compendia of codes, legal opinions, handbooks and manuals.

This chapter examines key international obligations, standards and commitments for democratic elections that pertain to the conduct of campaigns and the wider political context in which elections are held. The OSCE participating States have committed to adhere to these universal and regional human rights instruments in a number of OSCE documents.

Several OSCE landmark documents call upon the participating States to adhere to other internationally recognized human rights instruments, either adopted on a global or regional level. For example, in the 1975 Helsinki Final Act the participating States committed to “act in conformity with the 1948 Universal Declaration of Human Rights” and to “fulfil their obligations set forth in the international declarations and agreements in the field, including inter alia the International Covenants on Human Rights.” The 1983 Madrid Document calls on “those participating States, which have not yet done so, to consider the possibility of acceding to the Covenants.” Other OSCE documents reiterate the importance of joining international human rights instruments and related optional protocols, such as the 1950 Council of Europe European Convention on Human Rights (ECHR).³

1. International Obligations and Standards

a. UDHR, ICCPR and General Comments

Principles for democratic elections are inherently interlinked with fundamental freedoms that are explicitly recognized in several universal human rights instruments, including the 1948 UN Universal Declaration of Human Rights (UDHR). The latter establishes essential rights for the electoral process, including the fundamental freedoms:

- › The right to liberty and security of person (Article 3);
- › Freedom of movement (Article 13);

³ All 47 Council of Europe members are OSCE participating States.

- › The right to freedom of opinion and expression, including the right to hold opinions without interference and to seek, receive and impart information and ideas through any media, regardless of frontiers (Article 19); and
- › Freedom of peaceful assembly and association (Article 20).

Specifically related to elections, **Article 21 of the UDHR** states that “The will of the people shall be the basis of the authority of government, [...] expressed in periodic and genuine elections [...] by universal and equal suffrage and [...] by secret ballot or by equivalent free voting procedures.”

The **1966 UN International Covenant on Civil and Political Rights (ICCPR)** reiterates and expands on a number of rights protected under the UDHR. It is binding on all parties to the ICCPR, which have the obligation to give effect to these rights; that is the signatories have a key role to play in ensuring that citizens enjoy those rights in practice. All OSCE participating States are party to the ICCPR. Among others, the instrument stipulates that signatories:

- › Grant rights under the ICCPR on a non-discriminatory basis (Article 2(1));
- › Require that necessary steps to be taken, such as adoption of laws or other measures to give effect to the rights recognized in the ICCPR (Article 2(2));
- › Ensure that individuals whose rights or freedoms are violated will have the right to an effective remedy (Article 2(3));
- › Provide for the equal right of men and women to the enjoyment of all civil and political rights (Article 3);
- › Recognize the rights to liberty and security of the person (Article 9);
- › Guarantee the freedom of expression and right to information, as well as the right to seek and impart information and ideas (Article 19(2)); and
- › Protect the freedoms of movement (Article 12), peaceful assembly (Article 21) and association (Article 22), 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 interest 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.⁴

⁴ This is known as the ‘three-part test’ of legality, necessity and proportionality. The ICCPR provides that any restriction on fundamental freedoms (1) must be clearly established in the law, with possibility of redress; (2) it must be clearly justifiable for exceptional circumstances, such as in the interest of national security or public order, public health or morals, protection of the rights and freedoms of others, prevention of a crime; and (3) it must be proportionate to the interests it intends to protect. On the derogations from international human rights obligations, see also the ODIHR report on the [OSCE Human Dimension Commitments and State Responses to the Covid-19 pandemic](#).

Article 25 of the ICCPR is specific to elections and requires signatories to grant every citizen the right and opportunity to participate in public affairs, directly or through chosen representatives, to vote and be elected at genuine periodic elections.

To supplement the ICCPR, the UN Human Rights Committee issues authoritative interpretations of its provisions through **General Comments**.⁵ The General Comments relevant to conduct of genuine and democratic elections are:

1996 General Comment No. 25 on participation in public affairs and the right to vote. The document states that people must be free to support or oppose the government, without undue interference or coercion, which may distort or inhibit the free expression of the elector's will. It furthermore states that voters should be able to form opinions independently, free of violence or the threat of violence or manipulative interference of any kind. It also notes that citizens take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. It stipulates that the freedoms of expression, assembly and association are essential conditions for an effective exercise of the right to vote and must be fully protected, including through positive measures. It underlines the role of free communication of information and ideas about public and political issues between citizens, candidates and elected representatives and of the freedom to associate, including the right to form and join organizations and associations concerned with political and public affairs.

2000 General Comment No. 28 on the equality of rights between men and women stipulates that signatories must grant the rights contained in article 25 (of the ICCPR) to women on equal terms with men and take effective and positive measures to promote and ensure women's participation in the conduct of public affairs and in public office. It further notes that, "the right to participate in the conduct of public affairs is not fully implemented everywhere on an equal basis" and "requires States parties to provide statistical information on the percentage of women in publicly elected office, including the legislature." Moreover, it requires that signatories, "address the ways in which any instances of discrimination on other grounds affect women in a particular way, and include information on the measures taken to counter these effects."

2011 General Comment No. 34 on freedom of expression enumerates restrictions on political discourse that are cause for concern for the UN Human Rights Committee, including, "the prohibition on door-to-door canvassing, restrictions on the number and type of written materials that may be distributed during election campaigns, blocking access during election periods to different sources of information, including local and international media, of political commentary, and limiting the access of opposition parties and politicians to media outlets". It further stipulates that freedom of expression may be limited only if provided for by law and if such restrictions comply with the three-part test of legality, necessity and proportionality.

⁵ To date, the Human Rights Committee has not issued any General Comments in the area of freedom of association.

2014 General Comment No. 35 elaborates obligations to protect personal liberty and security of the person, including from arbitrary arrests and detentions. Accordingly, “an arrest or detention may be authorized by domestic law and nonetheless be arbitrary” and that arrest or detention as punishment for the legitimate exercise of the fundamental rights as guaranteed by the ICCPR is arbitrary. Moreover, it states that, “the right to personal security also obliges States parties to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors.”

2020 General Comment No. 37 on the right of peaceful assembly stipulates that, with other related freedoms, it “constitutes the very foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism” and that the “prohibition of a specific assembly can be considered only as a measure of last resort.” The document elaborates on the protection of the right as guaranteed in the ICCPR and notes that peaceful assemblies, including spontaneous ones, “wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof” should be protected. It further states that, “such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs” and that they are protected under the ICCPR, “whether they are stationary, such as pickets, or mobile, such as processions or marches.” It notes that if the assembly is peaceful, the fact that certain domestic legal requirements pertaining to an assembly have not been met does not, on its own, place the participants outside the scope of the protection of the ICCPR. Signatories have positive duties to facilitate peaceful assemblies and promote an enabling environment for the effective exercise of the right of peaceful assembly without discrimination. It recognizes the importance of the role of journalists, human rights defenders and election observers in monitoring and reporting on assemblies for the full enjoyment of the right of peaceful assembly and, as such, provides that they are protected by the ICCPR.

b. Other UN Instruments

Several specialized UN human rights documents contain a range of guarantees for specific groups that may require additional consideration in an electoral process. As such, they reiterate a number of ICCPR provisions, including those relevant to elections.

The 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) commits members to the elimination of racial discrimination and guarantees enjoyment of political rights and fundamental freedoms on equal terms. ICERD requires parties to outlaw hate speech and criminalize membership in racist organizations. It further commits them to guarantee the right of everyone to equality before the law regardless of race, colour, or national or ethnic origin. This equality must

apply to equal treatment by courts and tribunals, security of the person and freedom from violence, and the civil and political rights affirmed in the ICCPR.

The 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is an international legal instrument that requires signatories to take all appropriate measures to eliminate discrimination against women in political and public life of the country and invites signatories to adopt temporary special measures to accelerate de facto equality. CEDAW guarantees women equality in political and public life with a focus on equality in voting, participation in government and in “non-governmental organizations and associations concerned with the public and political life of the country.” It further requires state parties to take measures to seek to eliminate “prejudices and customs and all other practices based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped role for men and women.”

The 2003 United Nations Convention against Corruption (UNCAC) sets out standards for transparency aimed to reduce various types of corruption, in both the public and private sectors, including in the area of trading in political influence and abuse of power. It is the only legally binding multilateral international anti-corruption treaty and is particularly relevant for implementation of measures for prevention of abuse of state resources for campaigning. UNCAC covers five main areas: preventive measures, criminalization and law enforcement, international co-operation, asset recovery, and technical assistance and information exchange. It includes both mandatory and non-mandatory provisions.

The 2007 Convention on the Rights of Persons with Disabilities (CRPD) requires parties to “promote, protect, and ensure the full enjoyment of human rights by people with disabilities and ensure that they enjoy full equality under the law.” CRPD requires state parties to guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, including by protecting their right to vote without intimidation. It stipulates that signatories, “take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice,” and to encourage media, including providers of information through the Internet, to make their services accessible to persons with disabilities.

The 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states that individuals belonging to these types of minorities, have the right to participate effectively in public life and in the decisions on the national and regional level concerning the minority to which they belong or the regions in which they live, to establish and maintain their own associations, and to exercise fully and effectively all their human rights and fundamental freedoms without discrimination and in full equality before the law.

2. OSCE Commitments

The OSCE operates through a ‘consensus-based process’ that creates politically binding commitments and principles. Because they are political, they lend themselves at times to interpretations that can promote broader guarantees applicable to campaign contexts and can provide for an environment that is conducive to the conduct of democratic elections. Their other advantage is that they are valid from the moment participating States reached an agreement, rather than being subject to ratification processes and reservations. Once the participating States have reached consensus, their decisions enter into force immediately and are politically binding for all, without exception. The universality of these commitments, jointly agreed by all participating States, as well as their ‘peer-review’ quality, are the core strengths of the OSCE human dimension.

a. The 1990 OSCE Copenhagen Document

The 1990 OSCE Copenhagen Document is central to OSCE commitments. In the Copenhagen Document, the OSCE participating States recognized that pluralistic democracy and rule of law are essential for ensuring respect for human rights and fundamental freedoms. As such, the instrument represents a key reference point for ODIHR election-related activities, including when assessing the conduct of elections and the wider campaign and political environment in which they are taking place. In the Copenhagen Document, the OSCE participating States explicitly affirmed that, “democracy is an inherent element of the rule of law,” acknowledged “the importance of pluralism with regard to political organizations,” and expressed, “their common determination to build democratic societies based on free elections and the rule of law.”

Specific election-related commitments are contained in paragraphs 5, 6, 7 and 8 of the Copenhagen Document. Paragraph 6 provides that, “the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government.” In the same paragraph, the participating States committed to, “respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes,” and, “recognize their responsibility to defend and protect, in accordance with their laws, their international human rights obligations and their international commitments, the democratic order.” Paragraph 8 deals with the presence of foreign and citizen election observers and includes a standing invitation from all and to all OSCE participating States.

Paragraph 7 of the 1990 OSCE Copenhagen Document provides the basis for assessment of the level of adherence to the commitments and contains explicit political declarations to hold democratic elections, including to:

- ▶ Hold free elections at reasonable intervals (Paragraph 7.1);

- › Permit free popular vote for at least one chamber of the parliament (Paragraph 7.2);
- › Uphold universal and equal suffrage and the right of citizens to seek office, and put in place guarantees for free and fair electoral competition (Paragraph 7.3);
- › Ensure secret voting and honest counting with publicly available results (paragraph 7.4);
- › Respect the right of citizens to seek political or public office without discrimination, individually or as members of political parties (Paragraph 7.5);
- › Respect the right of individuals and groups to associate in political parties and provide them with, “guarantees that enable them to compete with each other on a basis of equal treatment before the law and by the authorities” (Paragraph 7.6);
- › Ensure that, “law and public policy work to permit political campaigning to be conducted in free and fair atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution” (Paragraph 7.7);
- › Provide for unimpeded access to the media for all electoral contestants on a non-discriminatory basis (Paragraph 7.8); and
- › Ensure that winning contestants are duly installed and are permitted to remain in office until their term expires or is legally ended according to democratic parliamentary and constitutional procedures (Paragraph 7.9).

In addition to the election-specific provisions outlined above, the overall conduct of democratic elections and election campaigns, depends on wider political factors. The Copenhagen Document enumerates several commitments relevant to the broad political environment, including those associated with fundamental freedoms and the rule of law. Some of these include the following commitments to:

- › Hold “free elections [...] at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives” (Paragraph 5.1);
- › Provide for “a clear separation between the State and political parties; in particular political parties will not be merged with the State” (Paragraph 5.4);
- › Guarantee that “everyone will have an effective means of redress” (Paragraph 5.10);
- › Uphold fundamental freedoms that are central to the conduct of democratic elections, including freedoms of expression and opinion (paragraph 9.1), peaceful assembly (paragraph 9.2) and association (paragraph 9.3); and

- › Ensure that any restrictions on fundamental freedoms are consistent with obligations under the ICCPR and with international commitments, in particular the UDHR, and that they are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured (paragraph 24).

b. Elections Standards and Principles in other OSCE Documents

A number of other OSCE landmark documents reaffirm the key principles and standards necessary for holding democratic elections and election campaigns. Some of these documents are thematically grouped below:

Genuine and periodic elections: In the Supplementary Document to the 1990 Charter of Paris for a New Europe, the participating States affirmed the universal “right to participate in free and fair elections.” In the 1999 Istanbul Document, they pledged to, “ensure fair competition among candidates as well as parties, including through their access to the media and respect for the right of assembly.” In the 2010 Astana Commemorative Declaration, they recognized the “important role played by civil society and free media in helping [...] to ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law.”

Freedoms of association and assembly: In the 1990 Charter of Paris for a New Europe, the participating States affirmed that every individual has the right to freedom of association and peaceful assembly. In 2008 in Helsinki, they issued a Ministerial Declaration on the Occasion of the 60th Anniversary of the UDHR and reiterated, “that everyone has the right to freedom of thought, conscience, religion or belief; freedom of opinion and expression, freedom of peaceful assembly and association.”

Freedom of expression and opinion: In the 1994 Budapest Document, the participating States underlined that, “freedom of expression is a fundamental human right and a basic component of a democratic society.” In the 1999 Istanbul Document, they reaffirmed the importance of a free flow of information and public access to information, and committed themselves to taking all necessary steps to ensure basic conditions for the flow of information.

Freedom of movement: In the 1991 Moscow Document, the participating States committed to removing, “all legal and other restrictions with respect to travel within their territories for their own nationals and foreigners, and with respect to residence for those entitled to permanent residence, except those restrictions which may be necessary [for] legitimate government interests, in accordance with their national laws, consistent with CSCE commitments and international human rights obligations,” undertaking to keep such restrictions to a minimum.

Women’s participation: In the 1983 Madrid Document, the participating States committed to ensuring equal rights of men and women and agreed to take all actions necessary to promote equally effective participation in political, economic, social and

cultural life. In the 1989 Vienna Document, they confirmed their determination to ensure equal rights and vowed to take all measures, including legislative, to promote equal participation of men and women in political life. In the 1991 Moscow Document, they recognized that “full and true equality between men and women is a fundamental aspect of a just and democratic society based on the rule of law.”

Underlining the universality of the values they espouse, the OSCE participating States have at several junctures, including in the **1989 Vienna Document** and **1991 Moscow Document**, called on others to accede to CEDAW or remove any reservations if they are already members. In 2004, the participating States reiterated the call and endorsed the **OSCE Action Plan for the Promotion of Gender Equality** in which they committed to ensuring equal opportunity for the participation of women in political and public life, to take necessary measures to encourage gender awareness and to promote equality in rights and full and equal participation of women and men in society, vowing to mainstream the gender perspective in all areas and at all levels. In the **2005 Ljubljana Document**, they committed to ensuring proactive implementation of the Action Plan. Further, in the **2009 Athens Document** they agreed to, “consider providing for specific measures to achieve the goal of gender balance in all legislative, judicial and executive bodies,” and other, “possible legislative measures, which would facilitate a more balanced participation of women and men in political and public life [and] encourage all political actors to promote equal participation of women and men in political parties, with a view to achieving better gender-balanced representation in elected public offices at all levels.”

National minorities’ participation: In the 1991 Geneva Report of the CSCE Meeting of Experts on National Minorities, the participating States committed to creating “conditions for persons belonging to national minorities to have equal opportunity to be effectively involved in the public life.” In the 1992 Helsinki Document, they vowed to intensify “efforts to ensure the free exercise by persons belonging to national minorities, individually or in community with others, of their human rights and fundamental freedoms, including the right to participate fully, in accordance with the democratic decision-making procedures of each State, in the political, economic, social and cultural life of their countries including through democratic participation in decision-making and consultative bodies at the national, regional and local level, inter alia, through political parties and associations.” And in the 2003 Maastricht Document, they reaffirmed the, “importance of the recommendations of the High Commissioner on National Minorities on [...] public participation.” Moreover, the document recommends that participating States organize election-awareness campaigns to increase participation of the Roma electorate, ensure that Roma voters can make free and informed choices in elections and to, “take measures to guarantee the equal voting rights of women, including by enforcing prohibitions on so-called ‘family voting’.”

Persons with disabilities: In the 1990 Charter of Paris for a New Europe, the participating States emphasized that, “democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person.” In the 1991 Moscow Document, the OSCE participating States explicitly

committed themselves to, “ensure protection of the human rights of persons with disabilities,” and, importantly, to, “take steps to ensure the equal opportunity of such persons to participate fully in the life of their society.” They also committed to, “promote the appropriate participation of such persons in decision-making in fields concerning them,” which includes in election-related laws, regulations and policies. They “encourage[d] favourable conditions for the access of persons with disabilities to public buildings and services, housing, transport, and cultural and recreational activities”, including access to polling stations, campaign venues and other premises in the course of elections.

Countering incitement to violence, discrimination, hostility and hatred: In the 1991 Geneva Report of the CSCE Meeting of Experts on National Minorities, the participating States expressed concern at, “the proliferation of acts of racial, ethnic and religious hatred, anti-Semitism, xenophobia and discrimination, stress[ed] their determination to condemn, on a continuing basis, such acts against anyone.” They also vowed to take, “effective measures, including the adoption, in conformity with their constitutional law and their international obligations, if they have not already done so, of laws that would prohibit acts that constitute incitement to violence based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-Semitism, and policies to enforce such laws.”

While the OSCE documents do not make explicit reference to **youth participation** in elections, the participating States have committed to promote the role and inclusion of youth in their peace and security agenda in several documents, including the **1975 Helsinki Final Act**, the **2014 Basel Ministerial Council Declaration**, the **2015 Belgrade Ministerial Council “Declaration on Youth and Security”** and the **2018 Milan Ministerial Council “Declaration on the Role of Youth in Contributing to Peace and Security Efforts.”** Other international organizations, namely the UN and the Council of Europe adopted resolution (UN Security Council Resolution 2250) and recommendation (CM/Rec 2016/7) on young people’s access to rights and a call on members to remove barriers, which limit young people’s democratic and election participation.

3. Regional Instruments in the OSCE Area

Several other regional organizations and instruments across the OSCE area provide further frameworks for ensuring human rights and democratic elections and campaigns.

The Council of Europe includes 47 members, all of which are OSCE participating states. The **1950 European Convention on Human Rights (ECHR)**, signed and ratified by all Council of Europe members, enumerates several fundamental freedoms relevant to elections. The ECHR protects the freedom of expression, specifically the right to “hold opinions and to receive and impart information and ideas without interference from public authority.” It guarantees the freedoms of peaceful assembly and association and the right

to liberty and security of person. Furthermore, the ECHR states that everyone whose rights and freedoms were violated under the Convention must have effective remedy at the national level.

At the supranational level, the European Court of Human Rights reviews applications concerning alleged breaches of human rights provisions as set out in the ECHR and its protocols. A number of the Court's decisions address issues pertinent to elections, including suffrage rights and the freedoms of association, assembly and expression.

The 1952 Protocol No. 1 to the ECHR, contains similar guarantees to those found in international instruments 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." Although initially the provision was constructed as a set of obligations, not as a human right, the European Court of Human Rights subsequently changed this interpretation and since 1987 regards the right to vote and stand for election as a fully-fledged human right.

The European Union (EU) consists of 27 members, all of which are OSCE participating States. It has also adopted treaties with provisions related to representative democracy and the rule of law. **The Treaty on European Union** evokes, "the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law," and confirms the member states, "attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law." **The Lisbon Treaty**, which entered into force in 2009, permits the sanctioning of EU members found to be in persistent breach of its fundamental values. The **2000 Charter of Fundamental Rights of the European Union** provides for freedoms of expression and information and of peaceful assembly and association. The document enumerates citizens' rights, including the right to vote and stand as candidate in European Parliament and municipal elections. Provisions of both documents are binding on all members.

The Commonwealth of Independent States (CIS), which has nine members, all of which are OSCE participating States, establishes legal obligations in the field of democratic elections through its **2002 Convention on Standards of Democratic Elections, Electoral Rights and Freedoms**. In 1995, the CIS adopted the **Convention on Human Rights and Fundamental Freedoms**. Both Conventions note the need to protect the rights and fundamental freedoms, including those related to elections and holding to account individuals who infringe on those rights. Numerous articles of the two documents refer to fundamental freedoms and other necessary conditions for campaigning and democratic free and fair environment for conduct of authentic elections and in line the national legislation and their international commitments.

The Organization of American States (OAS) brings together 35 members, of which two are OSCE members. The legally binding **1969 American Convention on Human Rights** sets forth fundamental rights and freedoms necessary for the holding of

democratic elections, protects the freedom of thought and expression, including the right to seek, receive and impart information and ideas, right of assembly and the freedoms of association and movement. The **2001 Inter-American Democratic Charter** which mandates the OAS to carry out election observation and technical assistance to its members, recognizes the importance of, “respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage [...] the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.”

4. Good Practice

Along with legally or politically binding treaties or commitments, other supplemental documents pertinent to elections have been developed by international organizations and are often referred to as international ‘good practice’. Some of these texts have a global dimension, while others are regional. These documents may evidence a high degree of support for particular rules by the respective organization’s members and can be widely utilized in election-related activities as a basis for providing guidance to participating States.

The Council of Europe’s European Commission for Democracy through Law (Venice Commission) is an advisory body on constitutional and legal matters and 51 of its 62 members are OSCE participating States. The Venice Commission’s **2002 Code of Good Practice in Electoral Matters** and the **2006 Code of Good Practice on Referendums**, provide practical guidance, including with reference to the general conditions that are required for the holding of democratic elections/referendums and the conduct of election/referendum campaigns (as well as the technical aspects of these processes). The first document offers definitions of principles of ‘Europe’s electoral heritage’, specifies conditions for their implementation and includes Explanatory Notes that clarify some interpretations. It notes that, “democratic elections are not possible without respect for human rights, in particular freedom of expression and of the press, freedom of circulation inside the country, freedom of assembly and freedom of association for political purposes, including the creation of political parties.”

The Code of Good Practice in Electoral Matters references the significance of periodicity of elections, the importance of equal opportunities, which “entails a neutral attitude by state authorities, in particular to [...] the election campaign” and further elaborates on the differences between the concepts of ‘strict’ and ‘proportional’ equality. The Code provides interpretations of the principles of equality of national minorities and the equality, as well as parity, of the sexes. It stipulates that voters must be free to form opinions, and that state and public authorities must honour their duty of neutrality – particularly as the use of mass media, billposting, the right to demonstrate on public thoroughfares and funding of parties and candidates are concerned

– so as to ensure equal opportunities to all contestants. It stipulates that voters' freedom to form opinions may be negatively affected, for instance, when someone attempts to buy a person's vote: vote-buying (and vote-selling) is a practice that states are obliged to prevent and punish.

In addition to the Codes, other relevant Council of Europe documents include the Committee of Ministers' recommendations and other election related texts published by the Venice Commission, often in co-operation with other organizations, including ODIHR. With reference to election campaigns, the **2016 ODIHR and Council of Europe Venice Commission Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes** represents the first dedicated document on this subject in the OSCE region. The Guidelines expand on previous ODIHR and Council of Europe publications on related matters and define misuse of administrative resources as, "undue advantage obtained by certain parties or candidates, through use of their official positions or connections to governmental institutions, in order to influence the outcome of elections." The document focuses on different categories of misuse of state resources, including institutional, financial or those by law enforcement bodies, and promotes a comprehensive approach that includes an assessment of the political will, legal framework and oversight mechanisms, as well as the election dispute resolution process.

Reports of UN agencies and special rapporteurs are further authoritative sources of guidelines for the conduct of democratic election campaigns. For instance, **the 2013 Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association calls on States** to, "ensure that peaceful assemblies are governed at most by a regime of notification regarding the holding of peaceful assemblies, in lieu of a regime of authorization." The notification procedure, where introduced, should be as simple and expeditious as possible. Regular **reports of the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression** include recommendations and suggestions on ways and means to better promote and protect the right to freedom of opinion and expression in all its manifestations, including online. The **2011 UN Guiding Principles on Business and Human Rights**, establishes a set of guidelines for States and companies to address human rights abuses committed in business operations, including with relevance to online media and social networks, which, among others, focus on state duty to protect, corporate responsibility to respect, and access to remedy.

The **1994 Inter-Parliamentary Union's Declaration of Criteria for Free and Fair Elections**, a global organization comprised of 179 national parliaments, established that the authority of the government can only derive from the will of the people as expressed in genuine, free and fair elections held at regular intervals on the basis of universal, equal and secret suffrage. Among others, it provides for the right of association; the rights to express political opinions without interference; seek, receive and impart information and to make an informed choice; to move freely within the country in order to campaign for election; the ability to campaign on an equal basis with other political parties, including the party forming the existing government; and the right to security.



CHAPTER II

POLITICAL CONTEXT and BACKGROUND

For election contestants to compete and campaign fairly, and for voters to make a free and informed choice, the necessary conditions for genuinely democratic elections must be in place. The conditions include voters' access and states' respect for human rights and fundamental freedoms during and outside of the election period. Elections that procedurally meet some of the international standards but are not pluralistic or are conducted in a restrictive environment with little regard for human rights or fundamental freedoms during or between elections are unlikely to be assessed as genuinely democratic. A description and assessment of the elements that shape the political context and environment in which the elections are taking place should be included in the Political Context section of a standard ODIHR election report.⁶

⁶ Throughout the text, the phrase 'political context' is used interchangeably with the term (political) 'background.' Unless stated differently, these two terms should be understood as synonyms.

The Political Context section usually enumerates key factual data about the election: the what, where, who, when and how of the process. It provides basic information about the political system of the participating State, both as stated in the constitution and assessed in practice. Underlining the fact that elections do not take place in a vacuum, the section sets the process against the broader backdrop of recent political, legal, institutional and social developments. Assessments of any given election's compliance with democratic standards must be framed in a wider context, including with a view to the practice of democracy and the functioning of democratic institutions, the rule of law and media freedom, as part of the electoral cycle. The Political Context should include factual information and an assessment of the conditions for political pluralism, respect for fundamental freedoms and genuine opportunity for civic and political participation and for voters to make an informed choice, separation of powers and the proper functioning of democratic institutions, such as the judiciary and respect for the rule of law, fundamental freedoms and human rights.

Highlighting some of the key contextual factors that may come to bear on the process is essential for the presentation of the political landscape in which elections are taking place. An assessment of the respect of specific fundamental freedoms and their application during the election period is commonly included in the Legal Framework, Voter Registration, Party and Candidate Registration or Media sections of a standard ODIHR election mission report. However, the overall assessment of the elections is a joint, mission-wide endeavour and the Political Analyst should work closely with other core-team members, in particular the Legal, Election and Media Analysts, when assessing relevant contextual aspects.

While Political Analysts conduct their own analysis based on the desk review and meetings with stakeholders, they should also familiarize themselves with assessments conducted by other reputable actors, e.g., other intergovernmental or non-governmental organizations. Good sources of information on the general human rights situation and specific issues related to the political context may be UN special reports or other assessments issued by the Office of the UN High Commissioner for Human Rights, the Venice Commission, as well as other OSCE and ODIHR publications on the respect of specific fundamental freedoms. For instance, the Universal Periodic Review (UPR) is a unique mechanism of the Human Rights Council (HRC) aimed at improving the human rights situation in each of the 193 UN Member States. Under this mechanism, reports reviewing human rights are issued every five years. Another source of information may be the statements and reports by the OSCE Representative on Freedom of the Media, in particular when addressing issues related to the freedom of expression. Moreover, the ODIHR and Venice Commission legal opinions, often jointly produced by both institutions, and the Council of Europe Group of States against Corruption (GRECO) reports may serve as credible sources of reference for the political context.

1. Assessment of Fundamental Freedoms

Fundamental freedoms are best protected when there is an absence of necessity, coercion, or constraint in political and civic choice or action. They are protected by rights, which are universal and inalienable, but also indivisible, interrelated and interdependent. The deprivation of one right can adversely affect access to other rights. These rights, which are established in international instruments discussed in the first chapter, must be in turn guaranteed and protected by laws. OSCE participating States took this obligation upon themselves when they signed and ratified the agreements or commitments.

Certain limits on rights that guarantee access to fundamental freedoms are allowed under international human rights law. However, this does not mean that any restriction is permitted. Only those limitations that pass the ‘three-part test’ of legality, necessity and proportionality may be put in place. Restrictions must be interpreted and applied narrowly and carefully to ensure that do not lead to a violation of international standards by negatively impacting the participation of any individuals or segments of society in public life.⁷

Identifying the international instruments to which the participating State is party to (and any possible reservations) is normally the starting point for the Political Analyst during an observation mission. To complete this task, the Political Analyst should work together with the Legal Analyst and provide analysis of whether the state has adequately protected the key rights that guarantee fundamental freedoms to its citizens. Rather than merely look to the election law, which normally governs aspects pertaining to the election period alone, the analysts should review the constitution, political party law and/or laws regulating the founding of civil society organizations, and any specific legislation governing fundamental freedoms (e.g., the rules related to peaceful assembly). The Political and Legal Analysts should also establish whether there may be any recent cases related to fundamental freedoms before the UN HRC or the European Court of Human Rights with relevance to the participating State or the election that is being observed. They should also ascertain whether there are any judgments or decisions issued by any relevant supranational body, or currently under execution procedure, and the status of such judgments, decisions or procedures.

a. Freedom of Assembly

Freedom of assembly is a fundamental component of democracy.⁸ It provides for the right to gather in public for the purpose of holding peaceful assemblies, protests and political meetings, both during and outside of an election period. Any regulation of the freedom to assemble should be limited to a requirement for notification of relevant authorities,

⁷ For example, in its judgment *Sidiropoulos & Others v. Greece* (10 July 1998) the European Court of Human Rights stated that: “exceptions to freedom of association must be narrowly interpreted, such that the enumeration of them is strictly exhaustive and the definition of them necessarily restrictive.”

⁸ For more on this topic, see [ODIHR and Venice Commission Guidelines on Freedom of Peaceful Assembly](#).

and the notification procedure should be as simple and expeditious as possible. As stipulated by General Comment 37, “having to apply for permission from the authorities undercuts the idea that peaceful assembly is a basic right,” and, “this requirement must not be misused to stifle peaceful assemblies.”

Paragraph 9.2 of the 1990 OSCE Copenhagen Document specifically states that everyone will have the right of peaceful assembly and demonstration.

Instances of restrictive approach to public assembly, especially when systematic, should be reflected in the Political Context section. Undue limitations on this freedom can include outright bans on assemblies, often those organized by critics of the government or its policies; placing undue burdens on assembly organizers or restrictions on the time, place and type of assemblies; denial to adequately protect participants of peaceful assemblies; requiring the organizers to bear an unreasonable cost of police protection or other administrative fees; and an unduly repressive attitude towards spontaneous assemblies. Any existing restrictions should be subject to review by the courts in a timely manner.

b. Freedom of Association

As an indispensable part of the democratic process, freedom of association guarantees the right for citizens to organize in political parties and civil society groups. The concept includes the rights to form, join and participate in the lawful activities of political parties and associations. States must comply with international obligations in the area of freedom of association, as set out in a series of international human rights instruments.

All participating States committed themselves in the **1990 OSCE Copenhagen Document** to, “respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities.” Moreover, in paragraph 9.3, the participating States also committed themselves to respecting the right to found and join labour unions; and in paragraphs 10.3 and 10.4 they vowed to guarantee the right to found and participate in the activities of non-governmental organizations and to co-operate and exchange with other such organizations, both domestic and foreign.

While it is the Party and Candidate Registration section of election reports that normally addresses the right to associate – especially with respect to the founding of political parties – it is often important to also reflect on this area in the Political Context section. This pertains not only references to recent developments in the political competition and party landscape, but also in the sphere of civil society activities. Registration denials or cases of systematic placement of obstacles in registering new political parties or their

ability to freely operate, should be clearly reflected in the Political Context section. Similarly, analysts should reflect any undue restrictions on the registration or activities of civil society organizations.

Undue limitations on the freedom of association include: burdensome requirements, such as those for maintaining specific party structures (e.g., established presence in all districts); the mandatory holding of regular party events, such as annual congresses; requiring the submission of a high number of support signatures or maintaining a certain level of membership dues; or requiring unduly detailed or intrusive private data on party founders and/or its members.⁹ Conversely, states have a positive obligation to prohibit certain activities, which may also entail the banning of some associations.¹⁰

c. Freedom of Expression and Opinion

Freedom of expression lies at the heart of democracy. It is guaranteed by the right to seek, receive and impart information. As with the previously noted freedoms, the freedom of expression is secured by the ICCPR, which stipulates that everyone has the right to obtain or disseminate information and, “ideas of all kinds [...] either orally, in writing or in print, in the form of art, or through any other medium of the person’s choice.” In order to foster free exchange of ideas that is indispensable for a democratic society to flourish, the right to freedom of expression must be safeguarded at all times.

Paragraph 9.1 of the 1990 OSCE Copenhagen Document specifically states that the right to freedom of expression “will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”

Although access to freedom of expression is extensively covered in the Media section of election reports, systematic challenges to the right to freedom of expression or any specific infringements on it that constitute an important part of the environment within which the election is held, should be reflected in the Political Context section. A broadly recognized limitation on the freedom of speech includes prohibitions on incitement to violence and hatred. In this context, the ICCPR stipulates that, “any advocacy of national, racial and religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

⁹ See the ODIHR and Venice Commission [Guidelines on Political Party Regulation, 2nd edition](#) (2020).

¹⁰ Article 4 of the ICERD requires states to adopt positive measures, such as prohibiting organizations that promote and incite racial discrimination. See also the European Court’s judgment *Vona v. Hungary* (9 July 2013), in which the Court ruled that an association can be banned if its activities constitute widespread racist intimidation; as well as its judgment *Refah Partisi (The Welfare Party) and others v. Turkey* (13 February 2003), in which the Court ruled that the restriction may be justified for a State, under its positive obligations under article 1 of the ECHR, to impose on political parties the duty to respect and safeguard the rights guaranteed by the ECHR and the obligation not to put forward a political programme that contradicts the fundamental principles of democracy.

It should be noted that there is no universally accepted definition of 'hate speech'. Not all speech that contains disparaging elements addressed at individuals or even groups should be treated as hate speech in the understanding formulated in Article 20 of the ICCPR.¹¹ As noted by the OSCE Representative on Freedom of the Media, "governments should refrain from introducing legislation which makes it an offence simply to exacerbate social tensions. Although it is legitimate to sanction advocacy that constitutes incitement to hatred, it is not legitimate to prohibit merely offensive speech. Most countries already have excessive or at least sufficient 'hate speech' legislation. In many countries, overbroad rules in this area are abused by the powerful to limit non-traditional, dissenting, critical, or minority voices, or discussion about challenging social issues. Furthermore, resolution of tensions based on genuine cultural or religious differences cannot be achieved by suppressing the expression of differences but rather by debating them openly. Free speech is therefore a requirement for, and not an impediment to, tolerance."¹² With the emergence of social networks, these negative phenomena have become more visible and widely spread, especially during election campaign periods. ODIHR's *Guidelines for Observation of Election Campaigns on Social Networks*, published in conjunction with this handbook, addresses the issue of different type of speech in more detail.

A specific element of the freedom of expression is the right to the freedom of opinion. Systematic attempts to stifle public debate, unduly restrict the flow of information necessary for the formation of opinion or manipulate public opinion outside the election period, should be noted in the Political Context section. International treaties provide that everyone should have the right to hold opinions without interference. This means that all citizens, but also associations, including political parties, must be free to both hold their own views and to communicate them during the election period and between elections. Interpretive sources note that there should be free communication of information and ideas about public and political issues between citizens, candidates and elected representatives. They note that the following types of communication should never be subject to restrictions:

- › discussion of government policies and political debate;
- › reporting on human rights, government activities and corruption by public authorities, election campaigns or peaceful demonstrations; and
- › expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.¹³

¹¹ Article 20, paragraph 2 of the ICCPR states that, "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

¹² See the *Joint Declaration (2006)* by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression.

¹³ See UNHRC (1999) *Report of the Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression*, paragraph 4(p)(i).

As stipulated by the UN Human Rights Committee in General Comment 25, “voters should be able to form opinions independently, free from violence or the threat of violence, compulsion, inducement or manipulative interference of any kind.”

d. Freedom of Movement

Undue restrictions on the freedom of movement, which affect matters of political participation, should be also reflected in the Political Context section. International treaties protect the freedom of movement, which grants the right to travel and encompasses the right of individuals to go from one place to another within the territory of a country, to leave the country and return to it. In the electoral context, it is essential for political parties and voters, as well as for poll workers and observers to move freely. But it is not only during the election period that freedom of movement is considered a precondition for meaningful participation in public life. Political parties and their representatives must be free to travel throughout the country to conduct their outreach activities at any time. For example, citizens working away from home, including abroad, must be able to return to their countries to tend to their affairs, including registering as voters.¹⁴

e. Right to Liberty and Security of Person

International and regional treaties protect the right to security, which includes protection from arbitrary arrest, detention and exile. Interpretive sources highlight the need to protect voters or specific groups from interference, coercion and intimidation. They state that women politicians and voters can often be subject to greater intimidation and coercion than their male counterparts. They also extend the right of security of person specifically to certain parts of the population, including (other) vulnerable groups or professions, such as journalists and human rights defenders.

Paragraph 16 of the 1990 OSCE Copenhagen Document prohibits torture and cruel, inhuman, or degrading treatment or punishment.

State practice sources suggest that this obligation also requires equal treatment by the authorities, such as a neutral attitude of law enforcement. The right to security of the person requires that individuals be free from physical and emotional violence at all times. Systematic abuses of the right to security, including the imprisonment of individuals thought to be on political grounds, merits clear reflection in the Political Context section.¹⁵

¹⁴ See also ODIHR’s Report on the [OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic](#), which analyses how specific fundamental freedoms, including the freedom of movement have been affected during the pandemic period.

¹⁵ For more on this topic, see [ODIHR Guidelines for Public Security Providers in Elections](#).

Points of Inquiry

General aspects

- ✓ Are there any legal restrictions in place as concerns access to political rights?
- ✓ Are there any practical impediments stakeholders face when it comes to access to fundamental freedoms?
- ✓ Are any existing restrictions on rights, including in states of emergency, necessary and proportionate to their aim?
- ✓ Are effective legal remedies in place and have they been used successfully?

Freedom of assembly

- ✓ Is the freedom of assembly fully guaranteed and protected in the constitution?
- ✓ Are rules governing public assembly and all related conditions clearly laid out in legislation?
- ✓ Are political parties, civil society organizations and individuals able to peacefully assemble outside of the election period?
- ✓ Is there full enjoyment and respect for rights of citizens to hold peaceful demonstrations and meetings?
- ✓ Are there any restrictions on the freedom of assembly, in practice, that detract from citizens' participation in public or political life? Are they necessary, serving a legitimate interest and proportional to their stated aims?
- ✓ Is only notification required for holding a public assembly, or is permission by the authorities necessary?
- ✓ Are effective legal remedies in place and have they been used successfully? Do the courts address challenges in a timely manner?
- ✓ Do any groups enjoy preferential treatment in exercising their freedom of assembly? Conversely, do any groups face undue restrictions?

Freedom of association

- ✓ Is the freedom of association for political parties guaranteed and fully protected in the constitution?
- ✓ Are the rules related to the freedom of association clear and are all relevant conditions laid out in legislation?
- ✓ Is there full enjoyment and respect for the right of association in practice?
- ✓ Are there any unreasonable, disproportionate, unnecessary or ambiguous legal requirements for the registration of political parties and civil society organizations?

- ✓ Are decisions concerning the registration of political parties or civil society organizations legally sound?
- ✓ Can decisions to refuse registration be reviewed by the courts in a timely manner?
- ✓ Are effective remedies available? Have they been used successfully?
- ✓ Is there a record of refusal to register or deregister political parties or civil society organizations?
- ✓ Are some groups particularly negatively affected by restrictions with regard to the right to associate?
- ✓ Is there evidence of discrimination by the authorities of any groups regarding their right to associate?
- ✓ Do any groups face undue challenges in operating or conducting their activities? Can they raise funds, or do they face any practical impediments to doing so?

Freedom of expression and to form and hold opinions

- ✓ Is the freedom of expression and to form and hold opinions fully guaranteed and protected in the constitution?
- ✓ Are the rules related to the freedom of expression and to form and hold opinions clear and are all relevant conditions laid out in legislation?
- ✓ Does the law permit citizens and candidates to freely communicate information and ideas about public and political affairs?
- ✓ Are citizens and candidates free and able to form and hold views, as well as communicate information and ideas about public and political affairs in practice?
- ✓ Are citizens permitted to engage in public debate and publish political material?
- ✓ Are citizens free to support or to oppose government, without undue influence or coercion of any kind?
- ✓ Does everyone have the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, or through any other media of choice?
- ✓ Is there a history of interference in or limitations on access to the freedom of expression? Similarly, is there a record of attempts to interfere with citizens' freedom to form opinions independently, without threat, inducement or manipulative interference? What are some of the recent examples?
- ✓ Do citizens face any restrictions exercising the right to the freedom of expression?
- ✓ Are there any restrictions in place, either in the law or in practice, on political discussion or debate?
- ✓ Are any existing restrictions on speech based on the law, necessary, serving a legitimate interest protected by international law and proportionate to this aim?
- ✓ Are effective legal remedies in place, and have they been used successfully?

- ✓ Do any groups, especially the underrepresented and often more vulnerable segments of society, face any discriminatory treatment/impediments in exercising their freedom of expression or to form and hold opinions?

Freedom of movement

- ✓ Are there any restrictions in place on any stakeholders' freedom to move throughout the country or to leave and return to it?
- ✓ Are political parties and their representatives able to meet with citizens in all parts of the country?
- ✓ Are citizens who are away from their place of residence able to meaningfully participate in government and public affairs more broadly?

Right to liberty and security of person

- ✓ Is the right to liberty and security of the person established in the law? Is it respected in practice?
- ✓ Are citizens protected against arbitrary arrest and detention?
- ✓ Is torture, cruel and unusual punishment prohibited by law? Are such prohibitions upheld in practice?
- ✓ Is there any record of violations of the right to liberty and security since the previous election?
- ✓ Are effective remedies in place, and have they been used successfully? Are any groups more vulnerable to abuses of the right to liberty and security than others?
- ✓ Do state authorities treat all groups equally when it comes to respect for the right to liberty and security of person?
- ✓ Are some groups more vulnerable to abuses of the right to liberty and security than others?
- ✓ Are law enforcement and other security providers neutral in their conduct?
- ✓ Have any intergovernmental or international non-governmental organizations voiced any concerns about the respect for the right to liberty and security of person in the country?

2. Specific Circumstances

At times, elections may be held under unusual conditions, such as during a state of emergency or other forms of state alertness during which access to fundamental freedoms may be curtailed. In other contexts, elections can give way to political or societal tensions, which can lead to violence, be it domestically driven or in the form of foreign

intervention. Holding elections under these circumstances can affect the integrity of the process and/or public confidence therein. While any systemic political or election-related violence having occurred during previous elections should be reflected in the background section of the reports, acts and instances of violence that have occurred during the current election under observation should be reflected in the relevant sections of the report (most commonly in the campaign environment or post-electoral developments sections).

a. Elections During a State of Emergency

In response to large-scale or wide-impact incidents of criminal, insurgent or terrorist nature, violence or public health emergencies and natural disasters, the authorities may declare a state of emergency or enact other specific mechanisms to better protect public welfare. A state of emergency may be declared at the local, regional or national level. Practice shows that different levels of state of emergency may be declared, in which executive authorities have varying degrees of power, depending on the severity of the situation and/or the legal provisions governing extraordinary situations. International treaties provide that it may be permissible for the state to introduce restrictions on certain fundamental freedoms, human rights and electoral obligations, or derogate from them during such time.¹⁶

The **ICCPR** and **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, that is necessary in the given circumstances. The **1990 OSCE Copenhagen Document** also provides that derogations should be limited to the, “extent strictly required by the exigencies of the situation.” The OSCE participating States further committed to ensuring that, “any derogations from obligations relating to human rights and fundamental freedoms during a state of public emergency must remain strictly within the limits provided for by international law, in particular the relevant international instruments by which they are bound, especially with respect to rights from which there can be no derogation.”

Official derogations should be made after a state of emergency has been publicly declared or other official emergency legal processes enacted. Laws governing states of emergency should provide for prompt and independent review by the legislature of the necessity of such derogations. As in all other cases, restrictions should meet the ‘three-part test’ of legality, necessity and proportionality, and be subject to legal review. Although some

¹⁶ The UN Committee on Economic, Social and Cultural Rights (CESCR) 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.”

OSCE participating States have constitutional or legal prohibitions on holding elections during the state of emergency, there is no specific international standard regarding the organization of elections under emergency rule. However, international good practice is clear that democratic elections are not possible without ensuring fundamental freedoms. Balancing guarantees of fundamental freedoms against security or restrictions brought on by concerns for public health is particularly complex during an election; it is therefore necessary to consider if restrictions or derogations on rights and freedoms could impact the process and results.

In the context of an election, a state of emergency can affect the environment by curtailing the rights of freedom of assembly (e.g., limiting gatherings); expression (e.g., imposing ‘gag’ orders on the media); and/or movement (e.g., curfews). It can also lead to the enhancement of the presence of security personnel, including the military, around election-related facilities. Finally, it can also necessitate the relocation of election-related infrastructure and administration. Factual information on the state of emergency declared or maintained during the election period, as well as possible references to credible international organization reports on its impact on access to fundamental freedoms should be included in the Political Context section. Assessment and specific details affecting particular aspects of the election process should be elaborated in the relevant thematic sections of ODIHR election reports, for instance in the Legal Framework or Campaign Environment sections. Such assessments generally require close co-operation among analysts, e.g. between the Political and Legal Analysts.

All OSCE participating States were affected by the worldwide outbreak of the **COVID-19 pandemic** in 2020, and all took various measures to prevent its further spread. During the pandemic, states have had to balance the protection of fundamental freedoms and human rights with emergency response measures. In this respect, the implementation of aspects of the OSCE human dimension became more challenging. In line with its mandate, ODIHR set out to remind the participating States of their commitments. It published a report on the *OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic*, highlighting specific challenges arising from the crisis across the OSCE area. The report presents an overview of state obligations when declaring a state of emergency and derogating or restricting fundamental freedoms, describes the various impacts of these measures on democratic institutions and human rights, and offers recommendations for the OSCE participating States when dealing with such or similar emergencies in the future.

b. Political and Electoral Violence

Elections are a mechanism for peaceful political competition between contestants vying for office. In some contexts, aspects of the election process can be marked with political or societal tensions; this is more likely when elections are subject to manipulation or stakeholders do not have confidence in the integrity of the process.

Political violence may be described as violence used or threat of violence made by a state against non-state actors (e.g., police brutality) and against other states (e.g., armed conflict or war). It can also refer to politically motivated violence by non-state actors against the state (e.g., violent demonstrations, rioting or *coup d'état*) or against other non-state actors. Some cases of state non-action can also be characterised as a form of political violence, such as failure to protect the population from natural or man-made harm. **Electoral violence** usually refers to acts or threats of coercion, intimidation, or physical harm carried out to exact impact on the electoral process or competition. Women candidates and voters, underrepresented groups, including national minorities, but also certain categories of professions such as journalists and human rights defenders can be especially vulnerable and susceptible to risk. These risks can include physical or psychological violence, including cyber-bullying; sexist or other derogatory comments; and different forms of intimidation. In order to understand electoral violence, it is important to consider its possible root causes, which may include deep-cutting societal and political divisions; history of political violence; the high-stakes nature of elections; human rights concerns; weak state institutions; poverty; socioeconomic inequality; and corruption.

Potential triggers of electoral violence can be irregularities or violations that occur during any part of the process, such as: non-inclusive candidate registration; unfair campaign conditions and aggressive rhetoric; non-transparent, poorly managed election results processes; absence of effective legal remedies; perception of biased institutions, including those adjudicating disputes; unrest, manipulation or organizational issues on election day; discriminatory or dysfunctional legal frameworks; unfair or manipulated boundary delimitation; and non-inclusive or discriminatory voter registration. These and other violations and irregularities are often aimed at influencing the outcome, determining the winner(s) or securing approval or disapproval in a referendum. By the same token, it is important to recognize that violence can be deep-rooted and triggered by elements outside of the electoral contest, such as gender or racial hatred. Actors may sometimes use elections as an opportunity to fan social discord and violence. It is important to note and reflect in mission reports that underrepresented groups, such as women, national minorities and persons with disabilities, can in some cases be specific targets of political or electoral violence, and be particularly vulnerable to different forms of violence.

Electoral violence can be spontaneous, for instance when protestors react to violations. But it can also be premeditated, carried out in a more or less planned fashion in order to advance a specific cause or political end. It can occur during the election period, including on election day or in response to the announcement of results, but it may also manifest itself much earlier, thus influencing the general atmosphere ahead of voting. Any instances of political violence, especially when systematic, are an important part of the context in which elections are taking place and therefore need to be addressed: either in the Political Context section, if violence unfolds prior to the election period; in the Campaign Environment section, if it occurs during the election campaign; or in the Post-Election Developments section, if it ensues after voting.

Points of Inquiry

State of emergency

- ✓ Is there a declared state of emergency in the country or other officially announced emergency measures? When was it declared/announced?
- ✓ Was the state of emergency or emergency measure declared in accordance with the constitution and was there a political consensus?
- ✓ What type of emergency is it? What are the different modes of constitutionally foreseen emergency rule?
- ✓ Are the grounds for the extraordinary situation broadly accepted by stakeholders? As far as it is possible to ascertain, are emergency measures proportional and necessary?
- ✓ Do any restrictions on fundamental freedoms meet the requirements of the 'three-part test' of legality, necessity and proportionality?
- ✓ Do the provisions for declaring a state of emergency or other emergency measures include any specific references to elections?
- ✓ In what way has the declaration of the state of emergency affected the exercise of human rights and fundamental freedoms?
- ✓ Which derogations from human rights and fundamental freedoms have been introduced with the state of emergency?
- ✓ Have any measures been taken to safeguard human rights and fundamental freedoms during the state of emergency?

Political and electoral violence

- ✓ Are there instances of violence in the country that are either political or electoral in character?
- ✓ Is there a track record of political or electoral violence? Are instances of violence isolated incidents or part of a wider phenomenon or organized strategy?
- ✓ If prevalent, are instances of violence recorded across the country or are they limited to specific areas?
- ✓ Who are the main actors as both perpetrators and victims of violence?
- ✓ Are some sections of society, for instance underrepresented groups, more affected by political or electoral violence?
- ✓ How is the State responding to instances of electoral violence? How is the response perceived by stakeholders?
- ✓ How do violence, and responses to it, affect preparations for elections?

3. Background Aspects

A standard ODIHR election report should include the following background information:

a. Political System and Composition of the (outgoing) Parliament and Government

Information concerning the state structure, political system, including some reference to the relationship between the executive and legislature should be clearly reflected at the outset in mission reports. Information about composition of the outgoing parliament (and any significant changes thereto), may help the audience understand political developments in the country since the last election. The same is true of information about the composition of government or recent government reshuffles. At the very least, this information provides the reader with a better understanding of who the relevant political actors are. Moreover, it can serve to contextualise the subsequent sections of the report, for instance with regard to the composition of the election administration or allocation of free airtime during the campaign (e.g., where a proportional quota model is in place). Finally, the information signals which political forces competing in the election enjoy representation and/or are in the incumbent position(s).

Information regarding the composition of parliament and government should include a gender breakdown.¹⁷ Several international instruments, including OSCE documents, call for a balanced participation of women and men in political and public life. They also require collection and analysis of data to assess adequately, monitor and improve the situation of women. Therefore, both quantitative and qualitative assessment of representation, including the share of key positions held by representatives of different genders, merits reflecting in the Political Context section.

b. Conduct of Previous Elections

The number of previous elections observed by ODIHR in the participating State should be reflected in the Political Context section. A brief summary of findings from the most recent report may also be included, especially if key international standards for democratic elections were not met. Although the ODIHR methodology precludes comparisons of elections across time (in a single participating State) and space (among participating States), such references may be useful for the reader to better understand the trajectory of democratic development in the participating State.

¹⁷ Each month, the Inter-Parliamentary Union publishes [information](#) regarding the representation of women in national parliaments.

c. Other Relevant Considerations

The above-mentioned aspects that the Political Analysts should aim to cover, if relevant, in the Political Context section, are by no means exhaustive. While these areas form a core part of the general political environment in which elections are taking place, there are additional facets that may require consideration. Some of the most prevalent factors include:

Rule of law and the functioning of democratic institutions: In contexts where concerns exist about the separation of powers, adherence to the rule of law or the proper functioning of democratic institutions, for instance with regard to the independence of the judiciary, these should be elucidated in the Political Context section.¹⁸ Substantive, but also procedural issues, such as significant deterioration in the quality of parliamentarianism or serious infringements of parliamentary procedure, such as the absence of broad and inclusive consultations with the opposition and/or the civil society while adopting legislation, or breaches of other democratic norms, should be also covered.

Anti-corruption policies and practices: In participating States where corruption is a significant obstacle to the functioning of democratic institutions, and where it is perceived as being rife in public administration, or where anti-corruption policies are an important theme in political life, this should be highlighted in the Political Context section. While issues of transparency are touched upon in several of the thematic sections in a standard ODIHR election report, it may be prudent to address concerns about a systemic absence of political transparency, or conversely, to positively assess pro-transparency policies.

Political, social or electoral protests and boycotts: If the pre-election period was preceded by protests, whether political, economic or social, or if some potential contestants are boycotting or threatening to boycott the election, consideration should also be given to including these aspects in the Political Context section.

Political party system or social movements: Changes to the political party system, including the emergence of new and particularly visible political parties, but also social movements participating in the elections or shaping the campaign agenda, may also be mentioned.

Internal party democracy: Matters of internal party organization are rarely tackled in election reports, but in cases where special situations arise, be they positive or negative, these can be included in the Political Context section.

Inclusion of women, national minorities and persons with disabilities: It is an established practice to include numerical information such as a gender breakdown of the outgoing legislature in the Political Context section, while wider issues concerning

¹⁸ See the [Venice Commission Rule of Law Checklist](#).

the participation of women, national minorities or persons with disabilities are either mainstreamed throughout ODIHR reports or covered in specific sections. It should be noted, however, that aspects concerning underlying conditions and other findings or conclusions pertaining to the inclusion of underrepresented groups may also be reflected in the Political Context section. Evoking them there may be especially appropriate where there are good reasons to highlight their prominence early in the report.

Domestic political developments: To allow readers to better contextualise the election, it may be helpful to enumerate particularly important recent political or economic developments, e.g., issues such as opposition protests or an economic crisis. In cases where elections were called early, information concerning the reasons or a brief outline of events that precipitated the dissolution of the legislature or end of executive mandate may also need to be cited.

International dimension: In participating States that have achieved or are vying to attain an important foreign policy objective – e.g., membership in an international organization – this information may be included in the Political Context section. Progress reports on meeting the criteria for membership in the targeted organization can be referenced if they are relevant to the elections, including as background and context.



CHAPTER III

ELECTION CAMPAIGNS

Campaigning is a key and indispensable part of any election process. It provides an opportunity for contestants to present their views and platforms, and voters to become acquainted with the candidates and their policy proposals. There can be no democratic election without free exchange of ideas among contestants, and between contestants and voters. Accordingly, political pluralism and access to the freedoms of expression, assembly, association, movement and the right to liberty and security of the person are necessary prerequisites for genuinely democratic election campaigns. At the same time, state authorities have a duty to ensure that OSCE commitments and international standards that promote a fair campaign are upheld. This chapter deals with the application of fundamental freedoms and states' responsibilities for ensuring free and equal conditions during the campaign period.¹⁹

¹⁹ This chapter does not address matters of political and campaign finance, which are addressed in the 2015 [ODIHR Handbook for the Observation of Campaign Finance](#). Similarly, the chapter does not tackle the issues of candidate access to media and media coverage of the campaign, which are covered in the 2012 [ODIHR Handbook on Media Monitoring for Election Observation Missions](#). The use of social networks in campaigns is covered in ODIHR's 2021 [Guidelines for the Observation of Election Campaigns on Social Networks](#).

In democratic elections, all contestants must be able to convey and promote their messages freely and with equal opportunities, meet with the electorate, travel throughout their constituencies to reach voters to present their programmes and views. On the receiving end, voters must be free to form opinions without undue interference and should be able to make informed choices when casting their ballots. Incumbents standing for re-election should not enjoy undue advantage stemming from their current function. Elections should be free from violence, harassment and intimidation, incitement to violence or hatred. Any restrictions or attempts to restrict the fundamental rights and freedoms during the election period by state or non-state actors should be addressed in the Campaign Environment section of the report.

The Political Analyst must always pay close attention to all formal impediments to free campaigning, including reference to both the letter of the law and the way in which regulations are implemented in practice. Some seemingly benign regulations, including some attempts to foster equality — such as determining the number of permissible billboards per candidate or the size, format and physical breadth of platform pamphlets that can be distributed to voters — can have perverse effects on voters' ability to make informed choices. Such restrictions can negatively affect the competitiveness of the campaign and ultimately the election itself. Burdensome and heavy-handed attempts to stifle the political debate through over-regulation facilitate neither an engaging campaign nor allow for genuinely democratic election campaigns.

When assessing the campaign environment for compliance with international standards for democratic elections, the Political Analyst seeks to assess:

- › Whether access to fundamental freedoms is provided for in the legal framework, and secured in practice;
- › The plurality and competitiveness of the campaign;
- › Voters' ability to make an informed choice, free from pressure or fear of retribution;
- › Any factors that may have skewed the level playing field, and/or given some competitors, especially the incumbent(s), undue advantage;
- › Whether any contestants faced undue limitations or obstacles in the conduct of their campaigns;
- › Instances of violence, harassment or intimidation, incitement to hatred, or even more belligerent cases of negative speech; and
- › Any undue attempts to induce or bribe voters, either through direct or more subtle forms of exchange or promises thereof.

1. Assessment of the Campaign Environment

The constitution or primary law should provide for guarantees of the rights necessary to conduct free campaigns and be supplemented with regulations, whose implementation should be supervised by the competent administrative bodies, such as election management bodies (EMBs). In some cases, access to freedoms may be facilitated through special provisions applicable during the campaign period. The Political Analyst should scrutinize the legal and regulatory framework, often jointly with the Legal Analyst, and develop a robust understanding of the way in which fundamental freedoms are guaranteed. It is equally important for the analysts to identify gaps or shortcomings in the legislation that do not fully uphold or challenge international standards. An assessment should be made about the extent of the application of the rules, including whether:

- › The legal framework provides for contestants and voters to freely enjoy their rights and fundamental freedoms;
- › The legal framework provides for a fair and free campaign atmosphere;
- › All political parties and/or candidates are provided equitable chances to compete; and
- › Some contestants may be advantaged or disadvantaged during the process.

During the campaign period, electoral violations are often an inevitable aspect of the electoral process. **Campaign-related complaints** can be based on a wide range of issues, such as infringements of fundamental freedoms and human rights, abuses of state and administrative resources or vote-buying. Addressing these issues requires a robust election dispute resolution system, which includes a comprehensive legal framework and independent and effective oversight. The institutions responsible for enforcement, including law enforcement bodies, should take measures to prevent infringements, address any ongoing violations, restore violated rights and punish the perpetrators. Appropriate and proportionate action should be taken in a proper, visible and timely manner to discourage similar violations in the future. In the **1990 OSCE Copenhagen Document**, the participating States have committed to provide, “an effective means of redress against administrative decisions so as to guarantee respect for fundamental rights and ensure legal integrity.” The assessment of the election dispute resolution framework, including with regard to campaign-related violations, lies within the purview of the Legal Analyst. The Political Analyst should therefore closely co-operate and inform the Legal Analyst about any potential issues arising from observation of the campaign. Together with the Legal Analyst, the Political Analyst should review the sanctions in place for campaign violations and assess whether they are effective, proportionate and dissuasive.²⁰

²⁰ For more on this topic, see ODIHR’s [Handbook for the Observation of Election Dispute Resolution](#).

a. Respect for Fundamental Freedoms in the Election Campaign

The respect for fundamental freedoms lies at the very heart of a democratic election campaign. They are equally important for both contestants and voters and, as such, are firmly established in key international law instruments and are supported by political commitments, including in the 1990 OSCE Copenhagen Document. When providing an assessment of the legal framework for campaigning, the Political Analyst needs to examine its respect for fundamental freedoms and rights in the context of the campaign, as stated in the legislation and implemented in practice.

Freedom of assembly – in the context of elections, it establishes the right to hold political meetings and to organize campaign events. As stated in the previous chapter, any regulation of the freedom to assemble, including during campaign periods should be limited to a simple requirement for notification of relevant authorities, most frequently the municipal government, less often the police. In other words, organization of a campaign rally or other meetings should not be subject to permission by any authority.

Freedom of assembly is particularly vital during the campaign period, when communication between contestants and voters needs to be facilitated and protected. Therefore, in some contexts, special rules may be in place to enhance access to the freedom of assembly during elections. Where, exceptionally, some restrictions are in place, international standards stipulate that they should apply equally to all contestants: for instance, assemblies are banned in some countries in the vicinity of government buildings, as well as in health and educational facilities. Moreover, political parties and candidates should not be burdened with excessive regulations or face administrative challenges, such as undue restrictions on time slots when events may be held, unreasonable cost of police protection or other unwarranted technical impediments. It is important to note that participating States have a positive obligation to ensure the enjoyment of freedom to assemble, which should be accessible to all.

Freedom of expression and the right to hold opinions without interference provide the contestants and voters with the right to express their views and voters with the right to make an informed choice. While elements of respect of freedom of expression and the right to hold opinions will be addressed by the Media Analyst in the Media Section of an ODIHR election report, they must also be assessed by the Political Analyst in the context of the election campaign. The two aspects of this freedom effectively mean that all voters, candidates, but also associations, including political parties, must be free to hold their own views and to communicate them as they wish. Interpretive sources state that there should be free communication of information and ideas about public and political issues between citizens, candidates and elected representatives. They specifically note that certain types of communication, including election campaigns, should not be subject to restrictions. Recently, different forms of pressure on voters, their intimidation or enticement have been observed as a common method of interfering with the right to hold opinions without interference.

Restrictions on freedom of expression may be considered legitimate if limited to prohibitions on incitement to hatred, violence and promotion of terrorism.²¹ With the advancement of digital media and social networks, inflammatory rhetoric has become increasingly common during election campaigns, with both voters and electoral contestants resorting to more extreme narratives. Instances of speech that incites violence or hatred, especially when they originate with or concern electoral contestants, must be addressed in the election report. At the same time, it is important to recognize that, “although it is legitimate to sanction advocacy that constitutes incitement to hatred, it is not legitimate to prohibit merely offensive speech.”²²

Freedom of movement – in the context of elections, this freedom grants the right for contestants and voters to travel throughout the country during the campaign and the election period without undue restrictions. It is essential for political party representatives and candidates to be able to meet with voters to present their credentials and platforms. State practice sources add that contestants must be free to campaign, including holding rallies and meetings where they can most directly reach the electorate. Voters must also be free to travel, for instance to attend election related events.

Right to liberty and security of person – In the context of an election campaign, the right to liberty and security is essential to ensure that contestants are free to present their candidacies to voters without the fear of retribution. Voters, candidates and representatives of political parties and civil society should be free to take part in different electoral or post-electoral events, be they campaign events or protests, without the fear of retribution of any kind. As already noted in previous chapters, interpretive sources highlight the need to protect voters, women politicians and underrepresented and vulnerable groups from interference, coercion and intimidation. As concerns the campaign, this right is elaborated in the sections below.

Points of Inquiry

Freedom of assembly

- ✓ Are there any restrictions on the freedom of assembly, either in the law or in practice, which detract from contestants being able to organize or conduct meetings with voters or voters participating in the campaign?
- ✓ Are existing restrictions necessary, serving a legitimate interest and proportional to their stated aims?
- ✓ Are effective legal remedies in place, and have they been used successfully?

²¹ See article 20.2 of the ICCPR and paragraph 40.1 of the 1990 OSCE Copenhagen Document.

²² See the Joint Declaration (2006) by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples’ Rights) Special Rapporteur on Freedom of Expression

- ✓ Do stakeholders have the right to challenge decisions on prohibitions to assemble? Do the courts address them in a timely manner?
- ✓ Does the law require permission from the authorities for the organization of campaign events or rather notification by the organizers to the competent authorities?
- ✓ Do any groups or contestants enjoy preferential treatment in exercising their freedom of assembly? Do any groups/contestants face undue restrictions?

Freedom of expression

- ✓ Are contestants free to campaign without any limitations on the content of their platforms or campaign messages?
- ✓ Are contestants required to submit their campaign materials to any authority, including the election management body, for approval?
- ✓ Are citizens free to discuss public and political affairs without undue restrictions?
- ✓ Are voters able to form opinions independently (free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind)?
- ✓ Are citizens entitled and able to express support for any candidate for election without undue influence or coercion of any kind, especially that which may distort or inhibit the free expression of the elector's will?
- ✓ Are citizens free to campaign for the election? Are there any restrictions on the freedom of expression to form and hold opinions in practical application of the law, which detract from citizens' participation in elections?
- ✓ Did any contestants face any sanctions for the content of their campaign and/or their campaign materials? Did the content incite hatred or violence against groups?
- ✓ Is the participating State fulfilling its duty to protect against incitement and hate speech (directed at groups)?
- ✓ Are effective legal remedies in place, and have they been used successfully?
- ✓ Does the campaign provide voters with enough substance to make informed choices?
- ✓ Do any groups, especially the underrepresented and often more vulnerable segments of society, face any discriminative treatment/impediments in exercising their freedom of expression or the freedom to form and hold opinions during the campaign?

Freedom of movement

- ✓ Are representatives of parties and candidates free and able to travel and meet with the electorate freely?
- ✓ Are voters free and able to move freely to attend campaign events or connect with contestants or other voters?

Right to liberty and security of person

- ✓ Are any contestants or their supporters subject to violence, intimidation or harassment? If so, by whom?
- ✓ Are there provisions in the law concerning immunities of contestants during the campaign period?
- ✓ Are any groups more vulnerable to abuses of the right to liberty and security than others?
- ✓ Do state authorities treat all groups equally?
- ✓ Is law enforcement neutral in its conduct?
- ✓ Are any of the contestants or their supporters subject to violence, intimidation or harassment? If so, by whom?

Inclusion

- ✓ Do women, national and other minorities and marginalized groups enjoy equal access to fundamental freedoms?
- ✓ Are there any restrictions that underrepresented groups face accessing fundamental freedom during the campaign?
- ✓ Is effective remedy available and have they been used successfully by minorities and marginalized groups?
- ✓ Are the authorities proactive in their efforts to facilitate the participation in the campaign of underrepresented groups?
- ✓ Do women, national and other minorities and vulnerable groups enjoy equal access to fundamental freedoms?
- ✓ Are there affirmative measures to enable persons with disabilities to participate effectively in the electoral process, including access to campaign information as voters and opportunities to reach out to the electorate as candidates?

b. Free and Fair Atmosphere for Campaigning

The OSCE participating States have committed to ensure free and fair campaign conditions. In addition to the necessity for full respect of fundamental freedoms, the 1990 OSCE Copenhagen Document provides more detailed elaboration of how participating States have committed to ensuring free and fair campaigns. In it, States have committed to ensuring legislation provides for an environment in which contestants are free to present their candidacies without undue interference, and voters are able to make their choices without pressure or inducement.

Paragraph 7.7 of the 1990 OSCE Copenhagen Document stipulates that the participating States will, “ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution.”

In essence, to ensure a ‘free and fair atmosphere’ for campaigning, the legislation must protect contestants and voters from election-related violence, intimidation and coercion, including attempts to threaten or bribe. It must also protect voters from different forms of both direct and indirect pressure: not only to turnout or cast their ballots in support of a particular contestant, but also to attend campaign events or show support for a particular contestant. Arrests and detention of candidates or their supporters, disruption of campaign events, undue police interference (and in some cases the mere presence of law enforcement) or destruction of campaign materials, can indicate efforts to intimidate contestants and their supporters. Law enforcement must conduct itself in a neutral manner; when observing and assessing campaign events, from large rallies to small street-corner pickets, it is important to examine both the scale of police presence and its conduct. Direct and indirect actions that may affect turnout at campaign events should also be assessed against the legal framework and reflected in the Campaign Environment section.

The standard of ‘free and fair atmosphere’ for campaigning also means that candidates, party and campaign activists, and voters in general, should be protected from job dismissals or threats thereof. This is especially important in the case of several specific or vulnerable groups of voters or candidates such as students, public sector employees, members of armed forces, or other social groups that may become subject to political pressure.

Vote buying or allegations of vote buying remain a feature of election campaigns in some participating States. The practice is generally defined as the provision of money, goods or services, or promises thereof, in return for voter support. In many cases, the issue of vote buying is directly connected to the secrecy of the vote. Vote buying can be very difficult to detect and observe. The Political Analyst should establish whether legal prohibitions against vote buying are in place and track all credible allegations of vote buying, seeking to triangulate them among different sources and ascertain whether they are the subject of formal complaints. They should also identify how, if at all, the authorities are responding these allegations. State authorities have an obligation to address credible reports of vote buying or pressure on voters. Where there is a lack of a proactive approach, the prevalence of allegations can diminish public confidence in the process. As elaborated further below, the LTOs play a vital role in observing such instances in their respective areas of observation.

Beyond the ‘stick and carrot’ logic of intimidation and inducement, other factors can also shape the overall atmosphere of the campaign. Particularly belligerent rhetoric, such

as instances of hate or extreme nationalist speech, but also other aggressive forms of ‘negative campaigning’ can stifle the debate and ultimately challenge the voters’ ability to acquaint themselves with the content of contestant platforms in ways that allow them to make informed choices. On the whole, speech that incites violence and hatred should be subject to regulation in line with the internationally recognized principles, standards and commitments. It is often more challenging to address matters of populist rhetoric, hyper-partisanship or extreme polarization, which can inhibit meaningful discussion among contestants and/or their supporters, leaving voters less able to educate themselves about the programmes and platforms of political parties and candidates that are competing for office. When reporting on such instances, it is important to also reflect on the responses they generate, including from the state, which in some circumstances has a positive obligation to act, as well as on pushback from civil society and the citizenry at large.

Points of Inquiry

- ✓ Do the legal and regulatory frameworks effectively provide for a free and fair atmosphere for campaigning for all contestants?
- ✓ Do the legal and regulatory frameworks contain sufficient and clear campaign rules aiming to ensure a free and fair campaign environment?
- ✓ Do the legal and regulatory frameworks effectively protect the contestants’ freedom to reach out to the electorate and convey their messages? Do rules apply to the entire campaign period?
- ✓ Are State actions conducive to free and fair campaign environment? Does any administrative action bar parties or candidates from freely presenting their views and/or qualifications?
- ✓ Does any administrative action bar voters from participating in the campaign, learning about or discussing the views or qualifications of candidates?
- ✓ Do criminal (or administrative or other) laws prohibit intimidation or coercion of voters? Are they enforced in practice when it comes to electoral violations?
- ✓ Are campaign laws and regulations implemented in practice?
- ✓ Is there general respect for political pluralism in the campaign?
- ✓ Do the contestants face any undue limitations, by law or in practice, organizing and/or conducting their campaigns?
- ✓ Is there any evidence or are there any allegations of violence, pressure, intimidation or harassment of voters during the campaign? What factors can be helpful in assessing their credibility? Are the allegations promptly investigated?
- ✓ Are vote buying and other undue forms of inducement of voters prohibited by law? Are allegations of vote buying or other inducements prevalent? Are they credible? Are they promptly investigated?
- ✓ Is any group of voters, such as public sector employees, subject to pressure, threats or intimidation, or conversely, any forms of undue inducement?

- ✓ How do the authorities respond to allegations of violence, pressure, intimidation or harassment of voters? Are they proactive in their approach?
- ✓ Are perpetrators of campaign violations held to account?
- ✓ Is negative campaigning a prominent feature of the election? What is its nature and how does it affect voters' ability to make informed choices? Do instances of incitement and/or hate speech feature in the campaign?
- ✓ Are state authorities or other election stakeholders taking any actions to tackle incitement or hate speech?
- ✓ Are there any codes of conduct (ethics) established between contestants to regulate campaign behaviour? If so, what is their legal status? Who has signed the code of conduct? To which issues does it refer?

c. Equal Treatment and Equality of Opportunities

Recognizing that the concept fairness is central during elections and campaign periods, the OSCE participating States in the 1990 OSCE Copenhagen Document committed themselves to provide equal opportunities for competition between contestants. A level playing field is an essential part of fair election competition. It means that the state is obliged to ensure that contestants are treated equally, both in the law and in practice, irrespective of their political viewpoints or the interests they represent. International and regional treaties prohibit discrimination and provide that everyone must be equal before the law. Interpretative sources add that no one should be subject to discrimination or any disadvantage because of their candidacy or political affiliation. State practice sources add that all political contestants should have the same opportunity to present their platforms or programmes to the electorate, meaning that they should enjoy the same amount of time to campaign and be subject to the same laws or rules governing the use of public spaces for campaigning. Newly established political parties should be able to compete on fair grounds vis-à-vis more established groups.

Paragraph 7.6 of the 1990 OSCE Copenhagen Document stipulates that political parties and organizations be provided, "with the necessary legal guarantees to enable them to compete with each other on a basis of **equal treatment** before the law and by the authorities."

Regulation of some of following aspects could, under certain circumstances, lead to the unequal treatment of contestants:

- › Requirements for contestants to submit political programmes or campaign messages for review or approval by the authorities;
- › Granting the EMB the role of an organizer of campaign events or manager of contestants' campaign schedules; and

- › Vague rules on the use of public spaces for campaign events or for the display of materials.

Conversely, in some participating States there are also examples of enforced equality, such as requirements that contestants make use of billboards provided by the state in equal number to all, whereby political parties and candidates become effectively disallowed from devising their own campaign strategies to appeal to voters independently. While this may appear to signal a level playing field, such equality may be artificial and run counter to genuine competition.

Points of Inquiry

- Do the legal and regulatory frameworks sufficiently provide for equality of opportunities among contestants? Do they adequately protect contestants against unequal treatment?
- Are all contestants entitled to equal protection of law without discrimination? Do all contestants have equal opportunities to campaign, both, by law and in practice?
- Are there any restrictions that some political parties or candidates face that detract from equal treatment and/or equality of opportunities? Are these obstacles coded in law or borne out in practice?
- Do all contestants face equal obstacles or are some more disadvantaged than others?
- What role, if any, does the election management body play in facilitating the organization of campaign events or the display of campaign materials?
- Is timely remedy available in case of violations of the contestants' right to equal treatment?
- Are the authorities proactive in their efforts to ensure equal treatment and equality of opportunities among contestants?

d. Misuse of Administrative Resources

An issue that can negatively affect both the fairness of the election campaign and the equal treatment and equality of opportunities for all contestants, and is frequently observed throughout the OSCE region, is undue use of the benefits of the incumbency or the misuse of administrative resources. While the undue advantage of the incumbency can have different forms, it is mostly manifested through misuse of administrative resources, abuse of office for campaign purposes or, in broader terms, using the parliamentary majority for designing, adopting and implementing legislation favourable to those governing. International guidance documents state that material, financial or human public resources should not be abused in support of or against one or more political party or candidate. This may include budgetary and financial resources of state

authorities and the local administration, public premises and venues, public employees and vehicles or funding of contestants by state or partly-state owned or controlled legal entities. Finally, they also prescribe that state authorities do not announce or use budgetary programmes or infrastructure projects, offer public sector employment or social benefits, increase salaries or pensions, often on unclear or preferential terms, as a way to entice voters during the campaign period or shortly before.²³

To protect against this, the law should clearly state that public employees may not be involved in campaigning in their official capacity, and can only do so outside of working hours. Moreover, public employees should never be subject to coercion or inducement to participate in campaigns and/or to make any particular voting choice (to vote or not to vote for any particular political party or candidate). The law may prohibit or otherwise regulate the announcement of projects with significant budgetary implications, such as major infrastructure development, during the campaign period or after the elections have been called, thus preventing their misuse for campaigning purposes. Finally, the legislation should include procedures and penalties aimed at dissuading such electoral violations.

In order to safeguard equal enjoyment of rights and protect against undue advantages of incumbency, **paragraph 5.4 of the 1990 OSCE Copenhagen Document** stipulates, “a clear separation between the State and political parties; in particular, political parties will not be merged with the State.”

What emerges from international good practice is a stipulation that incumbents may not seek to use the benefits of their official position to obtain unfair advantage during election campaigns. The Political Analyst should assess whether the incumbent fulfils a necessary and unavoidable institutional role or whether the manner of election-related appearances abuses official capacity. This does not preclude incumbent candidates from running for election and campaigning outside of official duties or office hours and without the use of administrative resources. It should be noted that not all advantage stemming from incumbency necessarily challenges the standard as described in paragraph 5.4 of the 1990 OSCE Copenhagen Document. In practical terms, many forms of misuse of resources or abuse of office are equally well framed as aspects that challenge the level playing field described in paragraph 7.6. In some circumstances, equal opportunity for contestants may be the more appropriate commitment to draw on.

In some OSCE participating States, it is not uncommon for incumbents to use public buildings for campaigning purposes, while other contestants receive no such privilege. This can also be true of the placement of campaign advertisements, such as banners or billboards, on public property. Conversely, although rules vary across the OSCE area, in some participating States incumbents seeking another term in office may be required to step down from their positions for the duration of the campaign.

²³ For more on this topic see ODIHR and Council of Europe Venice Commission “[Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes.](#)”

In an effort to curb undue advantages of incumbency and their misuse for re-election purposes, some participating States prohibit the announcement of major public works or social assistance programmes during a specified period before the election. It is not uncommon for the incumbents to present their achievements in office as part of a re-election campaign, but public information campaigns paid for from the state budget and announced or commenced while an election campaign is underway may in some cases ubiquitously overlap with contestants' campaign messages, thus serving to confuse voters for the benefit of the incumbent(s).

Points of Inquiry

- Is there a clear separation between the State and political parties both in law and in practice?
- Are there provisions in the law that seek to mitigate the impact of incumbency advantage?
- Are there any gaps in the law or regulations that are being misused by the incumbent party or candidate?
- Is the law clear about prohibitions on the misuse of state resources for campaigning?
- Is anti-corruption legislation in place that may play a role in stemming instances of misuse of public resources or abuse of office?
- Does the legal or regulatory framework include safeguards protecting public sector employees from undue pressure or inducement?
- Do any contestants' campaigns benefit unfairly from state resources?
- Is there a level playing field for all contestants? If not, what factors tilt the playing field?
- Are the existing laws enforced? Are violations subject to investigations and/or penalties?
- Are penalties for the misuse of resources sufficiently dissuasive?

e. Participation of Women, National Minorities and Persons with Disabilities in the Election Campaign

As noted in the beginning of the Handbook, specific sections of ODIHR election reports should include details on the participation in the election process of different traditionally underrepresented groups. These include national minorities, persons with disabilities and women. In their assessments of the Campaign Environment, Political Analysts should pay particularly close attention to provisions in the legal and regulatory frameworks related to these often more marginalized groups, and to assess the conditions for their participation in campaign activities and inclusion in the elections more broadly. They should also reflect on the conduct of relevant institutions, including the election

management body and entities specifically mandated to protect the rights of underrepresented groups. For this purpose, the Political Analyst should hold meetings with representatives of such institutions.

The Political Analyst or, if deployed, the National Minority Analyst should also assess the level of national minorities' participation in the election campaign. He or she should also examine whether electoral contestants representing national minorities have been given the same opportunities to campaign as other contestants. Some of the aspects that analysts should take into consideration when making their assessment include: whether members of national minorities, as both individuals and groups, enjoy access to fundamental freedoms and human rights during the campaign period, including in areas with large concentrations of minorities; whether they are able to attend campaign events without impediments; whether they can use campaign facilities and display campaign materials under the same conditions as other contestants; whether they can campaign in minority languages; and whether there is any anti-minority campaigning conducted by other contestants or groups.²⁴

In paragraphs 30 to 39 of the 1990 OSCE Copenhagen Document, participating States have recognized that, "questions relating to national minorities can only be satisfactorily resolved in a democratic political framework" and that "respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States." The Document also states, "The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities."

An important aspect of ODIHR election-related activities is the observation and assessment of the participation of persons with disabilities in elections. In line with the ODIHR election observation methodology, the Political Analyst should assess whether persons with disabilities are able to obtain information from parties and candidates and to participate in campaign events in order to make informed choices. The assessment should also include consideration of whether candidates with disabilities were able to campaign freely and whether they have an equal opportunity to compete in the election. Some of the good practice examples in the OSCE region include state-produced materials to explain and promote legal obligations that apply to political parties under the CRPD; production of campaign information, equally for all contestants, specifically aimed at voters with audio or visual impairments; or the provision of public funds to cover additional costs that candidates with disabilities may face, such as transportation and sign-language interpretation.²⁵

24 For more on this topic, see ODIHR's [Handbook on Observing and Promoting the Participation of National Minorities in Electoral Process](#).

25 For more on this topic, see ODIHR's [Handbook on Observing and Promoting the Electoral Participation of Persons with Disabilities](#) and ODIHR's [Guidelines on Promoting the Political Participation of Persons with Disabilities](#).

A number of previously referenced paragraphs of the **1990 OSCE Copenhagen Document** require the participating States to provide equal rights and opportunities for all. Moreover, in paragraph 5.9 of the Document, participating States agreed that, “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law will prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground.”

All OSCE participating States recognize equality between women and men and have committed to promote equal opportunities to advance the full participation of women in all aspects of political and public life. The level of inclusion of women in the election campaign can be a key indicator of the overall conduct and democratic character of the electoral process. In this respect the Political Analysts should assess the participation of women in the campaign. They should familiarize themselves with the existing legal and regulatory campaign frameworks, as well as internal party policies. They should identify whether these documents include special measures to support women’s participation, additional financial resourcing and/or media airtime for women candidates or parties with higher proportions of women standing for elections. They should also assess the ability of women candidates to campaign, including with a view to less visible aspects, such as availability of political party funds and resources for women candidates.²⁶ The Political Analyst should also examine whether and to what extent women are actively participating in the campaign, the ways in which contestants address them and their needs as voters, and whether they feature in or are addressed by campaign materials and messages.

While the **1990 OSCE Copenhagen Document** contains most of the specific commitments relating to elections and non-discrimination, the principal OSCE standards on gender equality are included in the 1991 Moscow Document and the 1991 Istanbul Document, the Charter for European Security, as well as Ministerial Council decisions.

The Political Analyst should adopt the same approach for all underrepresented groups: he or she should assess whether they are participating in the campaign; the extent to which contestants address them or their needs during campaign events and in campaign materials; as well as establish what factors inhibit these groups’ greater participation and what measures, if any, are taken to address these shortcomings.

Despite notable efforts by the OSCE participating States to protect and promote the participation of underrepresented groups in public and political life, practice shows that representatives of these groups remain subject to harassment, intimidation and often violence. Underrepresented groups have become more vulnerable with the emergence of new media and social networks, which have become vectors for negative, aggressive and inflammatory rhetoric that often incites hatred and even violence. Election periods

²⁶ For more on this topic, see ODIHR’s [Handbook for Monitoring Women’s Participation in Elections](#).

often see intensified hatermongering online. While further efforts are needed by all relevant actors, including the OSCE participating States, political parties and other election stakeholders, to protect and promote the participation of vulnerable groups in elections, and it is up to the Political Analyst to assess the efforts of different stakeholders during the election.²⁷

Points of Inquiry

- Does the legal or regulatory framework include provisions for the inclusion of underrepresented groups in the campaign? Are they being satisfactorily implemented?
- Are conditions in place to allow for the inclusion of underrepresented groups in the campaign?
- Are underrepresented groups actively participating in the campaign? What constraints do they face?
- To what extent, if at all, do political parties or candidates address voters and/or the needs of voters from underrepresented groups?
- Are negative sentiments towards any underrepresented group being expressed in the campaign?
- Are the authorities proactive in their efforts to eliminate challenges that contestants or voters from underrepresented groups face?
- Do the complaints and appeals indicate any issues with the campaign finance regulations?
- Are there any instances of violence, intimidation or harassment – or conversely, inducement – of underrepresented groups during the campaign? Are there any examples of inflammatory rhetoric being used in the campaign?
- Are vulnerable groups subject to online harassment on social networks?
- Are the authorities proactive in their efforts to facilitate the participation of unrepresented groups in the campaign?
- Are the authorities proactive in addressing instances of violence, intimidation and harassment, or conversely, undue forms of inducement, against underrepresented or vulnerable groups?

National minorities

- Where frequently used, are contestants or voters free and able to use national minority languages during the campaign?
- Where frequently used, are national minority voters being addressed in their respective languages during the campaign?
- Are additional funds available to cover contestants' cost of translation or interpretation into national minority languages?

27 For more on this topic, see ODIHR's [Guidelines for Observation of Election Campaigns on Social Networks](#).

- Are national minority voters and/or their needs addressed in the campaign?
- Are national minority voters able to make an informed choice?

Persons with disabilities

- Are contestants and voters with disabilities able to partake in the campaign? What are some of the impediments both candidates and voters with disabilities face?
- Are voters with disabilities and/or their needs addressed in the campaign?
- Are additional funds available to help level the playing field for contestants with disabilities? Are they available to help contestants reach voters with disabilities?
- Are voters with disabilities able to make an informed choice?

Women's participation

- Are women active participants in the campaign, as both contestants and voters?
- What factors constrain greater participation of women in the campaign?
- Are special measures in place to support the inclusion of women in the campaign?
- Are resources available, including both direct and indirect state campaign financing, to help support the inclusion of women candidates or to level the playing field?
- Do political parties have any internal incentive mechanisms to promote women's participation?
- Do women feature in the campaign? Are they or their needs as voters addressed by contestants?

f. Other Relevant Considerations

i. Duration of Campaign Period

It is good practice for the campaign period to be defined in the law or by administrative regulations, in order to ensure equal opportunity for all contestants to campaign and present their candidacies freely without undue restrictions. To achieve this, the election campaign should have a clearly defined starting point that is applicable equally to all contestants. The duration of the campaign period should be sufficient to allow political parties and candidates to devise and implement their campaign strategies and effectively inform the electorate about their platforms and programmes.

Political commitments suggest that reasonable restrictions may be placed on certain activities during the campaign period, such as prohibitions on campaigning immediately

before election day (the so-called ‘campaign silence’ period) to allow for reflection and protect the voters’ right to cast their ballot without undue pressure. Similarly, there may be restrictions on the publication of election opinion polls before voting or of exit poll results while voting is ongoing on election day. While such limitations may be acceptable in some cases, extensive prohibitions on the publication of polls raise concerns about compliance with the principle of freedom of expression and the right to receive and impart information.

Points of Inquiry

- Is the official campaign period defined in the law or other regulations? Is the time frame respected by all contestants or third-parties?
- Is the official time period allocated for the campaign adequate?
- Are contestants provided with equal time and opportunity to compete during the campaign?
- If applicable, do all contestants and third-parties comply with campaign silence regulations?

ii. Over-Regulation of the Campaign

Excessive regulation of campaign activities can in some cases run counter to the letter or spirit of international standards for democratic elections. The most frequent examples of overly-regulated campaign environments include:

- Requirements to seek permission to hold campaign events;
- Stipulations to notify the authorities unreasonably far ahead of an event;
- Prohibitions on campaigning in central locations;
- Procedures for approval of campaign materials, messages and slogans or the size/format of billboards and posters; and
- Other administrative hurdles, which make the organization and running of an effective campaign unnecessarily burdensome, if not impossible.

More indirect impediments include unusually high hurdles to meet safety standards for mass gatherings, high cost of police protection and clean-up crews, or other similarly onerous measures that tax contestants’ abilities, especially the less well-resourced and organizationally weaker opposition parties and candidates.

Points of Inquiry

- How is campaigning regulated, both in the law and other acts, such as those issued by the election management body?
- Is the level of regulation of the campaign appropriate for the conduct of democratic elections?
- Do the contestants face any undue restrictions, either in the law or in practice, organizing or conducting their campaigns?
- Are the laws and regulations fair and implemented in an equal and consistent manner?
- Have the contestants themselves agreed to self-regulate, for example by signing a common code of conduct or other expressed means?

iii. Post-Election Developments

In rare cases, agitation or public outreach activities of electoral contestants extend beyond election day or the legally prescribed campaign period. In contexts where this occurs, this should be reflected in the Post-Election Developments section of ODIHR election reports. The description and assessment of these activities lie within the purview of the Political Analyst.

Such events may often be part of protests by contestants or voters, frequently representing the opposition, as a way to express dissatisfaction with the conduct of the election process or its outcome. When assessing post-election developments, the Political Analyst should take into consideration the respect for fundamental freedoms and human rights, the ability of electoral stakeholders (voters, contestants, civil society organizations) to hold public events and protests, identify what are the key demands and messages from the post-election events, whether they are peaceful or violent, and specify the role of the authorities, police or security service providers at such events.

Points of Inquiry

- Are fundamental freedoms and human rights respected in the post-election period?
- Are electoral contestants or other stakeholders permitted to hold public events after election day?
- Who are the main organizers of such events?
- What are the key messages from these events?
- How large and widespread the events are?
- Are the events peaceful or violent? How frequent are the instances of violence?
- What is the role of the police, security service providers or other public authorities at these events? Is there an excessive use of force by any of the police or security service providers?

2. Assessment of the Conduct of Campaign

Although some political or election campaign information can be brought to the attention of other analysts within the core-team, the Political Analyst has the overall responsibility for the assessment of the election campaign. Apart from desk analysis and a legal review, the Political Analyst will ordinarily meet with a high number and wide range of stakeholders. During these meetings, she or he should explicitly ask if the contestants and other electoral stakeholders have any concerns related to the parts of the legal framework that address campaigning, as well as about implementation of the law, in particular the aspects outlined in the previous sections. As a matter of course, the analyst should discuss the contestants' experience conducting the campaign so far, the contestants' programmes or the topics they address, and methods and strategies they plan to use.

Political Analysts engage with representatives of political parties and candidates; in order to maintain impartiality, they should always carefully plan these meetings, be conscious of how and when invitations are sent, ensuring that they listen to voices from all sides of the political spectrum. While achieving a perfect balance may not always be possible, it is necessary to aim for a representative mix and remain mindful of external perceptions of the mission and the way it conducts its affairs, as well as with whom it meets.

Political Analysts should triangulate findings from their meetings with contestants. One way to do this is to compare insights from exchanges with other interlocutors. For instance, local think-tanks or policy experts can provide additional context for understanding of certain specific events or developments. Civil society groups and regional or local associations can be good sources of information or specialized knowledge in their particular fields of activity. Representatives of the diplomatic community, who are themselves not active stakeholders in the election process, may provide insights that national interlocutors miss or do not wish to share. Political Analysts should carefully assess the different perspectives from a variety of interlocutors before making their own assessment.

When selecting interlocutors and preparing for meetings, it is useful for the Political Analyst to engage with her or his assistant, who should be well-versed in the country's politics and recent developments. National colleagues can be especially helpful in conveying useful background information ahead of any meeting. They will be regularly present during meetings, often acting as interpreters in case of a language barrier. Developing a good working relationship with the assistant is important: Political Analysts must be clear about their expectations, aims and preferred methods of work, so as to facilitate good co-operation and thus more fruitful observation, information gathering and analysis. They must also stress that the mission's impartiality will be judged also on the basis of all its members' conduct in meetings with interlocutors.

It is equally important to remember that citizens who are inevitably direct stakeholders in the election may not always retain neutrality or be perceived as being neutral, especially when faced with divisive political issues. All mission members abide by the Code of Conduct, but as a function of their exposure to political actors, the Political Analyst and his or her national colleague should take particular care to safeguard their impartiality.

a. Meetings with Electoral Contestants

The Political Analyst should meet with as many political parties and candidates as possible. If meeting all key actors is not possible, the Political Analyst should nonetheless strive to secure meetings with the most representative sample of political actors and contestants: those in or supporting the government, and those in the opposition; as well as candidates nominated by formations represented in the legislature, and those that enjoy no parliamentary representation.

By the same token, the Political Analyst should meet with political groups that did not nominate candidates, among others, to understand the reasons behind their decision and ascertain whether there are any undue restrictions in the legislation or practice. Similarly, where denial to register candidates is an issue, it may be necessary to meet with affected individuals or their representatives when they are unavailable to meet (e.g., because they are in exile or incarcerated) to assess if their right to stand was violated.

While there are good reasons to meet with the largest formations parties or the most visible political players, it is no less important to also make time to speak with secondary actors to hear their concerns and their views on the process, including on their opportunities to compete on an equitable basis. Although being based in the capital city may pose logistical challenges for meeting regional actors, it is beneficial to listen to voices from other parts of the country directly, not only through the LTOs. This is especially relevant in participating States with pronounced regional identities or significantly devolved political systems. Therefore, in addition to the time allotted to meetings and analysis, the Political Analyst should set aside time for travel. Importantly, the Political Analyst should strive to meet with representatives from marginalized groups, including women, persons with disabilities and national minorities or other potentially disadvantaged groups, including those outside the capital.

The Political Analyst will often accompany the Head of Mission when meeting key political interlocutors or candidates and should designate time to adequately brief him or her ahead of these meetings. It is good practice to meet interlocutors in their premises. Rather than collect information only through interviews, the Political Analyst should strive to observe first hand aspects of political parties and other relevant organizations' daily work during the height of the election campaign. Direct impressions can make invaluable contributions to the analysis of the campaign environment,

adding flavour to observations and providing a level of factual detail that may not be reflected in conversations alone. The Political Analyst should be able to take charge of the meetings, yet refrain from 'leading' so as not to merely confirm his or her own initial understanding. It is best to study the basic background information concerning both the organization and the interlocutors themselves. Questions should be drafted in advance, but not read out during the meeting, thus allowing for a more natural flow of conversation. It is a good practice to have back-up topics ready. It is important to remain flexible and adjust expectations during the meeting. Political Analysts should be prepared to drop questions when the time is short and seek future contact to clarify any confusion or follow up on the most pertinent issues. There may be instances when analysts may have to request a meeting with working-level representatives to fill any remaining gaps.

i. Campaign Topics

Political Analysts' meetings with contestants are generally dominated by many of the questions that feature as points of inquiry in the sections above. Beyond this, it is important to also address the subject of contestants' campaign platforms. While many political parties and candidates may concentrate on a narrow range of issues that are most popular with the electorate, election campaigns are often dominated by several themes. Because they serve as backdrop to the elections, some of these topics may be already reflected in the Political Context section, especially if their significance reaches beyond the election itself. These may include systemic corruption issues, major social reforms, the country's foreign policy prerogatives, war or other domestic or external armed conflicts.

The Campaign Environment section should list some of the topics that contestants include in their campaigns, and conversely, also reflect the consideration whether they may marginalize or omit some subjects. When assessing the campaign, the Political Analyst should aim to analytically link the pre-election context to themes that feature prominently in the campaign. It may be also important to point to the absence of a debate on issues that dominate some aspects of political life, for reasons such as weakness of the opposition or campaign strategy.

A free and genuinely pluralistic campaign will necessarily include many different opinions on policy proposals concerning any particular topic, especially themes of national importance. A lively debate and plurality of viewpoints are the necessary ingredients of a competitive election campaign. In addition to relying on interlocutors' responses and LTO observations, the Political Analyst should also establish and follow which topics

are discussed in the media and on social networks. This is vital to identifying the issues that dominate the election and motivate the electorate, and crucially, to ascertaining whether voters were able to make an informed choice.

ii. Campaign Methods

Apart from campaigning in the media, contestants in most OSCE participating states generally rely on two traditional methods to reach the electorate during elections: the display of campaign visuals (billboards, banners, posters and flyers, etc.) and meetings with voters (rallies, smaller gatherings, pickets, campaign stands, door-to-door visits, etc.). These means are sometimes supplemented by tele-marketing campaigns, (postal) mailings or SMS messaging. In the recent past, campaign activity has increasingly moved to the online domain, either to online versions of print or broadcast media, or new media available only on the Internet. Similarly, social networks now play a major role in election campaigns. The Political Analyst should seek to acquire a good understanding of the methods contestants use to conduct their campaigns and why some methods are chosen over others. Given the rising prominence of campaigning on social networks, ODIHR has released separate guidelines for assessment of this topic on its election-related activities.

During meetings with electoral contestants, the Political Analyst should inquire about their freedom to display campaign visuals, as well as about their views concerning equality of opportunity for political parties and candidates standing in the elections. The analyst should strive to establish whether contestants have any concerns about the allocation of spaces for posting or distributing campaign materials; whether they face any restrictions conducting their events or displaying or disseminating their materials; and whether prices for the display of billboards, banners, posters or other visuals are publicly available and equal for all contestants. They should examine whether information concerning the sponsor of the advertisement and quantity is required, and whether this requirement is universally implemented in practice. This assessment should be conducted alongside regional observation findings from LTOs. These aspects are discussed in detail in Chapter IV.

Similarly, the Political Analyst should establish what regulations are in place for holding meetings with voters, be it small or large-scale events. She or he should uncover whether candidates face any undue restrictions organizing or holding events. The analyst must also probe whether contestants enjoy equal access to public spaces and premises; whether notification procedures for campaign events are simple, transparent and

fair; or whether law enforcement and other security providers conduct themselves impartially towards all contestants. The assessment should again be based in large part on findings arising from LTO observation from across the country.

b. Meetings with Other Stakeholders

i. Civil Society Organizations, Experts and the Academic Community

Political Analysts should aim to meet with a wide range of experts who can enhance their understanding of and provide new empirical insights into the political and campaign environment. While it is important to establish whether these interlocutors are either linked or partial towards specific political actors, some are likely to be more neutral and can provide more nuanced and well-informed interpretations of facts and events. In contexts where dissenting voices are less likely to be tolerated, it may be necessary to seek out interlocutors outside the mainstream institutions to benefit from more neutral/unbiased assessments.

When selecting interlocutors, it is often a good idea to draw on the advice of individuals more familiar with the country, to identify the most suitable institutions and personalities. Leading universities and research institutes are a good place to start. Think-tanks and policy analysis centres may provide further contacts and information concerning particular issues. It is important to assess whether the given interlocutors are independent or may be, especially where they rely on state support, less free to share critical viewpoints. In contexts where civil society organizations are ideologically divided it is important to have a balance of viewpoints to have more a comprehensive understanding of the overall environment.

An important source of information about the general political situation in the country, but also the election and campaign environment specifically, are representatives of the ‘third sector’, or domestic civil society organizations. The Political Analyst should meet with human rights organizations and with groups that are particularly active in the area of elections, including citizen election observers, often jointly with the Election or Legal Analysts. Finally, institutions representing the interests of underrepresented or marginalized groups, such as women, national minorities, people with disabilities, and youth can be invaluable resources when it comes to concerns about their participation in elections and political life more broadly.

One key point to note is that in some contexts, groups that formally refer to themselves as non-governmental organizations or organizations of public interest, in actuality may be founded or funded by the state. Some of these entities might not necessarily represent independent voices. This is a crucial distinction, which should nonetheless not dissuade the Political Analyst from exchanging with representatives of these organizations: such

meetings can often provide inferences about the ways in which state resources are used for the benefit of the incumbent(s). Analysts should always consider how funding may impact different organization's impartiality or views on the elections.

ii. International Community

ODIHR election-related activities maintain regular contact with the diplomatic community, including through 'embassy briefings' for representatives of the OSCE participating States' missions to the host country. Beyond this, the Political Analyst will often accompany the Head of Mission when meeting interlocutors with the resident international community.

It is good practice for the Political Analyst to establish direct contacts and have separate meetings with staff of the resident international community. In terms of multilateral missions, one obvious place to begin is the (permanent) OSCE presence, if there is one active in the participating State. Furthermore, the UN and some UN agencies, such as the United Nations Development Program (UNDP) or UN Women, can be good sources of information about national politics, including elections. Some of these organizations are often directly involved in programmes that aim to further good governance and political participation.

Other interlocutors may include the Council of Europe, CIS or the World Bank, as well as a host of other, smaller fora. Last but not least, international non-governmental organizations, including those active in the area of electoral support and observation, but also other more politically or socially focused bodies, including political foundations, can be sources of useful information.

It is important to note that international actors are not direct stakeholders in the election process. At the same time, they represent their countries' interests and thus the objectivity of their viewpoints should not be taken for granted. As in all other cases, it is important for the Political Analyst to triangulate findings, seeking to verify information and balance assessments of particular events or developments.



CHAPTER IV

LTOs' CAMPAIGN FINDINGS

1. Role of the LTO Co-ordinator in Observation of an Election Campaign

ODIHR's election observation methodology relies on collective, mission-wide findings rather than individual assessments, regardless of whether they come from an analyst or an LTO team. The long-term and regional coverage established by ODIHR election observation missions during the electoral process ensures that missions are well positioned to observe country-wide trends and incorporate them in the overall assessment.

As part of the core team based in the capital, the LTO Co-ordinator, together with different analysts, strives to systematically collect information on the same subject matter, including on the conduct of the campaign, from LTOs deployed across the country. A critical mass of information on the same topic reveals systematic patterns, which form the basis of the mission's analysis, assessment, conclusions and recommendations.

The LTO Co-ordinator plays a fundamental role in consolidating the regional findings about the election campaign. As the interface between LTOs and the core-team, all communication goes through the LTO Co-ordinator, who ensures that relevant information, updates and clarifications to and from the LTOs are streamlined and efficiently transmitted. In practice this means that the LTO Co-ordinator juggles between content-related issues on the one hand, and operational ones on the other. This chapter explicitly focuses on particular aspects of the LTO Co-ordinator's work and provides for practical guidance for the LTO Co-ordinator and the Political Analyst in the observation of the election campaign.

In order to deliver effective support to the Political Analyst in understanding the conduct and content of the campaign at a regional level, the LTO Co-ordinator should:

- Liaise regularly with the Political Analyst in order to gather updates or information relevant for LTOs. By the same token, the Political Analyst should pro-actively approach the LTO Co-ordinator to inform her or him of issues relevant for LTOs;
- Draw the Political Analyst's attention to patterns developing in specific regions, for example a potential violation of commitments, denial of access (e.g., to campaign venues), or a smear campaign against a particular candidate, and discuss possibilities for LTO follow-up;
- Gather relevant information for the daily brief (sent to all LTO teams six times a week);
- Discuss and agree with the Political Analyst on a set of suggested points of inquiry and observation priorities for the coming observation period; and
- Collaborate with the Political Analyst and the Deputy Head of Mission in the preparation of mission reports to ensure that regional findings are accurately reflected and support the mission's overall assessment.

2. Communication with LTOs

Upon receiving any type of LTO report, be it on a rally observed or on a violation of campaign regulations, the LTO Co-ordinator must first establish the relevance of the observation. This includes determining whether the basic tenets of ODIHR observation methodology are met. A thorough review process by the LTO Co-ordinator includes the following steps:

- Check that the report addresses the basic questions: where, when, who, what, why and if relevant how often the observation has occurred;
- Clarify information that may not be clear to a reader unfamiliar with the regional context;

- Consider the need to obtain information from additional sources, unrelated to those already met by the LTO team; and
- Examine the LTO team's assessment against the facts and analysis presented and, if necessary, further discuss this with the LTO team.

The LTO Co-ordinator receives a plethora of reports covering a broad range of campaign-related content produced by many LTO teams. The information needs to be organized, structured and integrated in a coherent and systematic manner so as to make it easily accessible to the Political Analyst, and other members of the mission. For certain types of information, the LTO Co-ordinator should seek to extract, aggregate and record in registers or databases, usually developed jointly with the Political Analyst, key information drawn from various LTO reports (elaborated further down).

Being on top of the communication chain – and based on the information collected from different LTO teams, as well as from the Political Analyst – the LTO Co-ordinator is best positioned to provide effective guidance to the LTOs in their observation of the campaign. Assigning tasks and providing guidance are critical for a systematic and comprehensive observation. A systematic and comprehensive observation is one that includes information from as many regions as possible on the same subject matter from a given reporting period. This allows for regional comparisons, which reveal patterns/trends and outliers.

In relation to the conduct of the election campaign, LTOs typically seek guidance or clarification from the core team on the following: prohibitions on the misuse of state resources for campaigning; what information can be used in the mission's reports; conversely, why some findings cannot be included in reports; how to deal with an electoral contestant who systematically refuses to meet a team; how to assess the credibility of a source; where observation ends and interference begins; and what actions can a team take to substantiate allegations of practices that run contrary to international standards and/or breach national campaign regulations.

In this respect, the LTO Co-ordinator should:

- Support LTOs throughout the entire observation period in order to ensure the ODIHR observation methodology is consistently applied – meaning that observations and assessments of the election campaign can stand up to internal or external scrutiny;
- Ensure that LTOs have an optimum amount of information required to carry out their work;
- Inform LTOs about the mission's observation priorities for the upcoming week;
- Prioritize and assign specific tasks based on discussions held with the Political Analyst; and
- Respond to questions by LTOs through formal or informal channels of communication.

3. Tasking and Guiding LTOs

The LTO Co-ordinator's comprehensive overview of all LTO activities, both in relation to content and operational aspects, means they are best positioned to ensure that requests for information by the mission's analysts are reasonable, streamlined and contribute to the optimum use of finite resources. Therefore, the LTO Co-ordinator should filter and prioritise requests based on discussions with all analysts, and on election campaign matters with the Political Analyst.

The first encounter between the Political Analyst, the LTO Co-ordinator and LTOs is during the LTO briefing at the beginning of the mission. The tone and manner in which information, including about the political context or the upcoming election campaign, is imparted to LTOs must broadly respect one of the basic ODIHR methodological principles – stating only the facts. Leading statements that suggest personal opinions are contrary to ODIHR election observation methodology.

Most of the facts presented during the LTO briefing are those reflected in the ODIHR's Needs Assessment Mission (NAM) report. During the briefing and the LTO teams' first week in the regions, the Political Analyst (and other analysts) should refrain from providing LTOs with narrow or leading questions. Instead, LTOs should be encouraged to aim for breadth in the topics they look into in order to acquire a broad understanding of the political context in their region.

The journey of observation starts with breadth that comes from intellectual openness, an inquisitive mind and an awareness of one's preconceived ideas and assumptions, accumulated over a lifetime. Progressively, through direct observation and information gathered from meetings with a broad spectrum of interlocutors, LTOs metaphorically move from the top of the funnel downwards to its narrowest segment as opinions are formed and conclusions and assessments reached. **The Handbook for Long-Term Observers: Beyond Election Day Observation** provides LTOs with a set of suggested questions for interlocutors that cover different thematic areas, including the election campaign. These points of inquiry should be raised systematically with as many interlocutors as possible in order to ensure consistency of issues discussed and provide for effective cross-checking and triangulation of information.

For meaningful and effective communication and guidance, the Political Analyst should strive to keep the LTO Co-ordinator and the LTOs informed of country wide-developments, including sharing relevant information from meetings with interlocutors in the capital in a timely manner. There are several key tools the LTO Co-ordinator and the Political Analyst should consider when deciding on the timing of LTO tasks. These include:

The Electoral Calendar – produced by EMBs with deadlines for key election-related activities applicable to different institutions. It is a public document and often highly

detailed. The mission prepares an abridged version for ease of reference and extracts deadlines relevant for LTO teams. The Political Analyst will, for example, want to know whether the local administration is fulfilling its campaign-related responsibilities as reflected in the calendar. Examples of responsibilities could include: timely allocation of public spaces for campaign events or for the display of materials, removal of posters to reflect the start of campaign silence, etc.

The Mission Calendar – that includes deadlines for LTO reports and the mission’s public reports. The LTO Co-ordinator must ensure that findings from the regions are reported in a timely manner for inclusion in the mission’s reports. The mission calendar includes deadlines for the publication of mission reports, which, by extension, also define the reporting schedule for LTOs. Timely reporting by LTOs and the allocation of sufficient time for the LTO Co-ordinator to discuss possible concerns with the team and allow for additional LTO follow-up are important to ensure accurate reporting.

The LTO Weekly Summary - (further elaborated below) provides a summary of campaign-related information from the regions and highlights trends observed during the conduct of the campaign over a given reporting period. In addition, the summary assists the Political Analyst, through the LTO Co-ordinator, to steer LTO attention towards observation priorities and gives impetus to the tasks assigned to LTOs. For example, if the summary mentions that some teams observed defacement of a particular candidate’s posters, the Political Analyst may wish to receive feedback from all teams on whether they too have observed this or to inquire whether teams have met representatives of the candidate in order to gauge the latter’s opinion and learn of any actions taken or planned.

A Memorandum on Campaign Regulations – produced by the Political Analyst, often in consultation with the Legal Analyst. LTOs should have a clear understanding of national campaign legislation and regulations to inform their decisions on what to pay particular attention. In addition, an understanding of campaign regulations is paramount in order to accurately assess the level of compliance with the national legislation. The document should include specific issues for LTOs to keep in mind when observing the campaign and suggested points of inquiry for interlocutors.

Suggested points of inquiry

while drafting a memorandum on campaign regulations include:

- ✓ Who is authorized to campaign?
- ✓ Which campaign methods are permitted? Conversely, which methods are expressly prohibited?
- ✓ What are the regulations that pertain to outdoor rallies and to indoor campaign events?
- ✓ What are the regulations that pertain to campaign materials?
- ✓ What are the regulations on the use of state resources for campaigning?
- ✓ What are the regulations on the use of official position for campaigning?
- ✓ What campaign activities, if any, are not clearly regulated?

Issues to keep in mind when tasking and guiding LTOs:

- Are the points of inquiry used to guide the work of LTO teams formulated in a neutral tone, open ended and clearly crafted?
- Do the daily briefs contain reminders of upcoming campaign-related deadlines and of what LTO teams are expected to observe and subsequently report on?
- Do LTOs have sufficient information from the core team (memos, meeting notes, updates in the daily brief, etc.) to understand the broader context of their observations?
- Is the memorandum on campaign regulations comprehensive and clearly drafted?
- Is the rationale in setting observation priorities explained to LTO teams?
- Is informal communication used sufficiently enough to guide and assist particular LTO teams to navigate challenges in their observation of the campaign?

4. Gathering and Summarizing LTOs' findings

LTO reports, such as the weekly, incident, issue-based and rally reports form the backbone of a mission's assessment.²⁸ The Political Analyst relies heavily on events observed and information gathered and reported by LTOs in order to understand, form an opinion and assess the quality of the campaign. The LTO Co-ordinator therefore plays a pivotal role in assisting the Political Analyst in grasping both the conduct and the content of the campaign in the regions. For the mission to arrive at a comprehensive and credible analysis and assessment of the quality of the campaign, the LTO Co-ordinator must systematically gather, record and organize information imparted in LTO reports.

A listing of facts devoid of analysis is of little use and the LTO Co-ordinator should regularly encourage LTO teams to reflect on the information they receive and impart. Reflection provides the opportunity to seek out linkages between different pieces of information and to do a triage between what should be emphasized and what should be discarded. An ongoing process of inquiry and reflection on the information received and on outcomes of follow-ups conducted, contributes to an LTO team's understanding of their regions and to their important assessment of the quality of the campaign.

a. LTO Weekly Reports

Campaign-related findings are reflected in two chapters in the LTO Weekly Reports. The chapter on Local Administration should provide information and examples to illustrate whether the administration fulfils its role and responsibilities in relation to the campaign, and whether it upholds the principle of neutrality and non-interference.

²⁸ Detailed information and guidance on types of reports and what LTO teams should include in them can be found in the [Handbook for Long-Term Observers – Beyond Election Day Observation](#).

Importantly, the chapter should also contain information about whether local authorities provide all contestants with equal opportunities to compete with one another. As noted above, while it is recognized that incumbency carries with it a certain degree of advantage, LTO teams should report instances where this is misused for electoral gain. In reading LTOs' reports, the LTO Co-ordinator and the Political Analyst should take note of indications or concrete examples of misuses and closely examine whether or not there is a clear separation between State and party activities.

Instances of misuse of state resources or incumbency may include the following:

- ◆ The use of government office space exclusively by one contestant as party or campaign headquarters;
- ◆ Posters solely of the incumbent on or in public buildings;
- ◆ Preferential treatment in assigning permits to use publicly owned venues for campaigning;
- ◆ Inaugurations of public works timed to coincide with the campaign or the use of such inaugurations in order to campaign;
- ◆ Promotion or use of significant budgetary programmes during campaign periods;
- ◆ The use of government websites to promote the achievements of the incumbent candidate or party; and
- ◆ Instances of pressure on or inducements provided to public sector employees to campaign or vote for the incumbent.

The chapter on the Campaign Environment in the LTO Weekly Report includes information on the atmosphere in the regions, on how the campaign is conducted and on the regional activities of electoral contestants. When observing and reflecting on the campaign, the LTO Co-ordinator should encourage LTOs to pay attention to and distinguish between the content of the campaign on the one hand, and the process on the other. Examples of content-related information are the tone and the substance of the party platforms and messages communicated to voters during campaign events, such as rallies. Process-related assessments require attention to questions such as whether civil and political rights of all stakeholders are respected by representatives of the government or state institutions. Instances of violence, intimidation, pressure, obstruction or discrimination during the campaign, loss or threat of loss of employment are also examples of process-related observations of the campaign. Such events either directly observed by or reported to LTOs, should be included in the Campaign Environment chapter of the Weekly Report and further elaborated in a separate incident report (explained below).

Suggested points of inquiry for the LTO Co-ordinator when reviewing Weekly Reports:

- Is the tone and level of intensity of campaign activities sufficiently explained?
- Which campaign tools are used? Why are some methods preferred over others?
- Do contestants communicate messages and platforms during campaign events?
- Is there information on the level of participation and representation of women, national and other minorities and other marginalized groups in the campaign?
- Is there an assessment of the level of compliance with campaign regulations by different stakeholders? Are examples of violations provided?
- Are there any particular concerns related to the respect of fundamental freedoms by different stakeholders, including the authorities and contestants? Are they sufficiently substantiated?
- Are there any particular concerns related to the equality of treatment of electoral contestants by the authorities?
- Does the chapter contain sufficient analysis and progressive assessments of the campaign environment?

In sum, the chapters on Local Administration and on Campaign Environment in the LTO Weekly Report are the primary tools for the Political Analyst to gauge whether facts and assessments from the regions conform to their own understanding and analysis, and to validate or refute impressions formed during their work at the national level.²⁹

b. Incidents Reports

Depending on the type of event, an Incident Report might include information gathered from meetings with several interlocutors and from all sides involved. For example, an Incident Report on vandalism of campaign premises might provide information shared by the party affected, the police, the person injured and a journalist known to an LTO team whose information on previous occasions was accurate. The LTO Co-ordinator must ensure that all information relevant to a given incident is consolidated in one document, which ensures ease of reference when preparing the mission's reports.

²⁹ Often LTO Co-ordinators produce an unabridged compilation/digest for each of the two chapters. The unabridged compilations allow the Political Analyst to refer to one document to easily compare LTO findings across all regions on the same subject matter during the same reporting period.

The LTO Co-ordinator should request an LTO team to produce an Incident Report when extraordinary or particularly important events or developments take place. Subjects for incident reports might include obstruction of LTOs' or contestants' activities, violence, serious allegations of violations of the law or of electoral rights, instances of intimidation, pressure on voters or activists or candidates, withdrawal of candidates, particularly noteworthy campaign rallies, or speech which incites hate or violence. Most of these examples normally constitute violations of the country's campaign regulations and practices and contravene international obligations and standards, political commitments and good practice.

The details of specific campaign-related incidents should be classified and recorded in a database/register of campaign-related incidents. A cursory glance at its content reveals the type and frequency of any given violation or breach of international obligations and standards. In other words, the database provides the reader with a snapshot of the overall nature and quality of the campaign. It is a key tool when preparing the mission's reports. To reflect the relevant aspects of the campaign environment, the template for the database can be jointly developed by the Political Analyst and the LTO Co-ordinator. While the LTO Co-ordinator provides the relevant information extracted from LTO reports (weekly, incident and rally reports), the maintenance and updating of the incidents database is usually within the Political Analyst's remit.

Checklist for designing and maintaining the incident reports database/register:

Designing

- Listing all possible campaign-related violations – regularly, this list should already be reflected in the campaign memo jointly prepared by the Political and Legal analysts;
- The 4Ws (who, what, where, when);
- The source of the information;
- The level of credibility of the source and of the information; and
- Indexing (or providing a link) back to the complete unabridged LTO weekly, incident and rally report.

Maintaining and Updating

- Is the information provided for each entry comprehensive?
- Is each entry properly indexed/referenced back to the complete unabridged LTO report?
- Is the database user-friendly and self-explanatory for ease of reference by other analysts?

c. Rally Reports

Following their observation of a campaign rally, LTO teams should draft a rally report, which describes the form and conduct of the event, and content and tone of campaign messages. Campaign rallies provide an opportunity for the mission to understand:

- › The general atmosphere of the campaign (e.g., whether it was festive, tense, orchestrated, spontaneous);
- › Attendance of the event (approximate number of participants and gender breakdown);
- › The content and tone of speeches (including incitement);
- › The audience's reactions;
- › The capacity in which speakers address participants (often an indicator of whether the advantage of incumbency is misused);
- › The level of participation of women, national minorities persons with disabilities, youth and other marginalized groups, both as speakers and attendees, as well as any messaging to these groups; and
- › The level of police presence.

Depending on the specifics, the LTO Co-ordinator may request the team to additionally produce an incident report after they have held meetings with further interlocutors. If, for instance, the event was disrupted or the LTO team observed or received reports of misuse of administrative resources in the organization of the event and/or over the course of the event itself, they should clearly indicate this in the report by providing as much detailed information as possible. Conversations with event participants may reveal whether anyone was forced to organize, attend or ensure a minimum attendance of the event.

Each Rally Report is recorded in a log of rallies, typically developed and maintained by the LTO Co-ordinator. For the purposes of the LTO Weekly Summary Report, and when pertinent for the mission's public reports, the LTO Co-ordinator provides the following statistics, narrative and analysis:

- › The total number of rallies observed for each electoral contestant, this could indicate contestants' campaign strategy;
- › Regional specificities, including regions that contestants prioritize and an analysis of possible reasons, based on information provided by interlocutors;
- › Audience attendance, including estimated gender breakdown;

- › Overview of the level participation of women, national minorities, persons with disabilities, youth and other marginalized groups; and
- › Trends, if any, of violations of campaign regulations prior to or during the event and to which contestant(s) are the violations attributed.

Check list for designing the log of rallies:

- The 4Ws (who, what, where, when);
- Speakers, including gender breakdown, and the capacity in which they address the audience;
- Total number of participants at each event;
- Estimated gender breakdown of participants present at each event;
- Key messages, including separate fields for messages on gender issues and national minorities;
- Language(s) used by speakers;
- Use of speech inciting hatred or violence and inflammatory language;
- Violations of campaign regulations during the event; and
- Any other noteworthy comments provided by LTOs.

d. Issue-based Reports and Campaign Forms

At times, particular observations benefit from supplementary and deeper analysis than what can be included in an LTO Weekly Report. In this case, the Political Analyst, following discussions with the LTO Co-ordinator, may draft a short briefing note accompanied by a set of questions to be answered by LTOs.

For example, if the Political Analyst seeks to gain a deeper understanding of whether allegations of preferential treatment of some contestants by the authorities are grounded, the LTO Co-ordinator may request LTOs to record their answers to a specific set of questions related to this topic in a spreadsheet. This would serve as one of several components of a preliminary conclusion on whether authorities ensured a level playing field for electoral contestants during the campaign period.

At times, other tools, such as online forms, may be developed by the Political Analyst to identify a country-wide snapshot of the campaign environment or specific issue during the conduct of the election campaign. The form generally consists of different types of questions (yes/no, frequency, etc.) and can help the Political Analyst in obtaining a better understanding of the extent and spread of a particular campaign issue.

e. Weekly Summary Reports

The Weekly Summary Report, also commonly referred to as the Weekly LTO Field Report, is a summary of all campaign observations, findings and analysis reported by the LTO teams over the course of a given reporting period. Information for the Weekly Summary should be extracted from weekly, incident, rally and issue-based reports. The LTO Co-ordinator systematizes all information into a coherent fact-based document aimed at highlighting trends that support the analysis provided. In preparing the summary, the LTO Co-ordinator concurrently focuses on three key tasks:

- Ensuring ODIHR election observation methodology is applied. Importantly, all angles of an election-related event must be presented. A negative assessment of the conduct of an event should ideally be accompanied by a narrative, which distinguishes between genuine mistakes or intentionally motivated malpractice. Illustrations included in the Weekly Summary must be ‘watertight’ (i.e., able to stand up to scrutiny) and the information assessed as potentially useable in the mission’s reports;
- Checking the veracity of facts reported by extensively conferring with LTOs. Ongoing LTO follow-up or facts not fully corroborated are reflected as such in the summary; and
- Examining the coherence of argumentation and linkages between facts, analysis and conclusions.

A useful and meaningful Weekly Summary Report should:

- Provide a scale (quantity) and diversity (plurality) of sources from which the information is derived. The LTO Co-ordinator produces detailed references including on the overall number of meetings held with each contestant and the overall number of campaign events observed;
- Include a clear structure, headings and subheadings so that the information is organized thematically. For example, subheadings in the Campaign Environment chapter could include: campaign messages; campaign methods; participation of marginalized groups; violations of campaign regulations (which may be further sub-categorized into misuse of administrative resources; vote-buying; violence; defacement of posters, etc.);
- Highlight country-wide trends, both positive and negative; and
- Strike a balance between overly detailed and insufficient information.

f. LTO Final Reports

LTO Final Reports provide an overall assessment of the electoral process. In particular, the report provides the LTO team's assessment and conclusions on the entirety of the process, including pertinent post-election day developments. Importantly, it delivers concrete recommendations for the authorities of the host country on how the process might be improved or brought more closely in line with internationally recognized standards and OSCE commitments. Information provided in the LTO Final Report is assessed for possible incorporation in the mission's Final Report.

While most of the campaign-related information and observations are reflected in the weekly or other types of reports, the LTO Final Report should, whenever possible, include post-election developments that are of relevance to the Political Analyst. While the core team has the overall responsibility for drafting the mission's recommendations, the LTO Final Report provides valuable input based on regional observations. The LTO Final Report also grants LTOs a platform to provide feedback on all aspects of the mission and come forward with ideas and proposals for enhancing ODIHR's observation methodology, including on the election campaign.

5. Campaign Allegations

Election observers are not able to directly observe every single campaign incident during the course of the mission and therefore numerous allegations of campaign violations and other issues of public concern are brought to their attention. For this reason, observers need to consider the severity of the alleged incident in order to prioritize which allegation to look into more closely. ODIHR observation methodology relies on sensible, diligent and meticulous follow-up on allegations and reports of campaign violations or incidents such as violence, intimidation or pressure on voters, and vote buying. References to such instances are carefully examined, on several occasions and by different members of the election observation mission, in order to confirm the veracity of the findings and the credibility of the allegation before a conclusion is drawn in ODIHR election reports.

The LTO Co-ordinator and the Political Analyst can advise LTO teams what criteria to consider when prioritizing the follow-ups. In deciding whether or not to include instances of intimidation, pressure or serious cases of violations of campaign regulations in the mission's public reports, the ODIHR observation methodology calls for the highest level of scrutiny.

In practical terms this means that the veracity of findings provided from the regions by LTO teams and their assessments must stand up to several layers of probing. The scrutiny commences with the LTO Co-ordinator and the Political Analyst, and can include other analysts. The LTO Co-ordinator, as the primary operator of communication, takes

the lead in ensuring that facts are watertight, reliable, and that sufficient information is gathered. All parties to an event will have been granted the opportunity to present their views. All of the above mentioned factors are taken into consideration when deciding on whether or not to include an event in the mission's reports.

At times, individual observers might have a different opinion or interpretation of information received or its plausibility. Regular discussions and an exchange of views between observers is paramount for reaching a fair, accurate, impartial and independent assessment of the election campaign. ODIHR election observation methodology specifically foresees that LTOs work in multinational teams and that core-team analysts come from different backgrounds and nationalities so that an impartial and independent observation and assessment of the election campaign can be arrived at.

a. Types of Allegations

Below is a non-exhaustive list of campaign-related violations or issues of public concern often brought to the attention of observers as allegations:

- › Physical, but also psychological and cyber violence;
- › Intimidation and/or pressure on voters or electoral contestants;
- › Destruction of property and campaign material;
- › Misuse of administrative resources for campaign purposes;
- › Work dismissal or employment demotions or transfers;
- › Pressure on employees working in the public administration;
- › Unequal treatment of electoral contestants by the authorities;
- › Campaigning by public officials;
- › Pressure or threats on journalists or bloggers; and
- › Vote buying.

b. Substantiating Allegations

For following up and assessing certain types of allegations as credible and substantiated to justify their inclusion in the mission's reports, the following pointers may assist LTOs, the Political Analyst and the LTO Co-ordinator:

- › Maintain a healthy scepticism when faced with allegations;

- › Cross-check information with several unrelated and diverse sources;
- › Gather tangible evidence;
- › Consider unannounced visits where relevant; and
- › Ask for documentation and copies of complaints where relevant.

Observers should not blindly react to every allegation or rumour heard, but rather maintain a healthy degree of scepticism. The LTO Co-ordinator should regularly remind LTO teams that they must remain alert both to their own preconceived ideas and to the risk that interlocutors may sometimes present ‘facts’ in a particularly convincing manner and contrive to identify additional ‘plausible’ sources to validate their statements. Ultimately, a common sense approach and agreement between both observers within the LTO team and, if needed, in consultation with the LTO Co-ordinator, can be decisive in determining which allegations should be further assessed and which can be dismissed.

Cross-checking campaign-related information with a broad range of sources, unrelated or independent of each other, is an effective, albeit time-consuming, measure to mitigate stakeholders’ attempts to instrumentalize observers. In other words, sources used to cross-check information should not have all been introduced to the LTO team by the same person.

The LTO Co-ordinator must regularly inquire about how and in what context LTO teams identified particular sources. This must be clearly outlined in LTO reports. Following a discussion between the LTO Co-ordinator and the Political Analyst, LTO teams may be requested to look into and report on the presence and/or prevalence of the allegation in their regions in order to determine the level of spread across the country. Lastly, the Political Analyst should try to verify if interlocutors in the capital are familiar with the allegation, if there are any particular concerns and if any legal action has been taken to open a formal investigation. As a general rule, an allegation that is widespread among different segments of society has the potential to be more credible than those shared only by members or sympathizers of a single political party.

Even when LTOs are not able to directly observe an incident or if they arrive at the place of the event after an incident has taken place, they should try to gather as much tangible evidence as possible. Evidence allows a mission to arrive at a fact-based assessment of the quality of the campaign, grounding its assessment in direct observation and credible reports made by the mission’s interlocutors. Typical examples of tangible evidence can include:

- › Photos of a vandalized campaign office;
- › Photos of state-funded projects juxtaposed with political party logos during a campaign event;

- › Copies of campaign-related instructions prepared by regional heads of institutions; and/or
- › A copy of a report or complaint submitted to the competent authority by the complainant.

Allegations of threats or intimidation are difficult to substantiate. A corroborative approach should be adopted even though it is significantly more time-consuming and complex than, for example, gathering facts on a violent incident. Corroboration demands that LTOs have a comprehensive understanding of their region, bring together different pieces of information from unrelated and diverse sources, record events observed and reports heard, as well as constantly keeping an eye out for additional information that validates or negates earlier statements or findings.

Very often, instances of intimidation and or vote buying are almost impossible to observe and are rarely communicated in written form. For example, reports of pressure to support a given electoral contestant (or to refrain from campaigning for an alternative choice) are extremely difficult to document. Similarly, a person who has been the subject of pressure or threatened will be reticent to talk for fear of retribution. All election observers must remember that after a mission has repatriated, local interlocutors continue to live and work in the host country. ODIHR observers will maintain the utmost sensitivity, discretion and confidentiality when seeking to meet alleged victims of intimidation and/or pressure.

Substantiating allegations is also a time-consuming process in what is essentially a short and busy period for LTO teams. To substantiate particular allegations, LTOs need to conduct several follow-up activities such as hold additional meetings with different interlocutors and perhaps travel long distances in order to observe and confirm certain events. Follow-up on allegations of intimidation or threats is most effective when the observer has acquired a solid understanding of the political context and campaign environment, and has built professional relationships with interlocutors based on trust. The follow-up process involves diligently piecing the puzzle together, looking at events from multiple angles and always remaining open to the possibility that one's initial impressions may not be borne out by the facts. Good intuition or a hunch is a key starting point, but by no means the end point.

For example, in acting upon a hint provided by a journalist, an LTO team may opt to turn up unannounced at a venue in the town hall building and observe a gathering of teachers. On its own, this might not be enough to conclude that during the gathering, teachers were instructed by the local administration of their campaign-related responsibilities. But, it is an important first step towards substantiating allegations that teachers are coerced into campaign-related duties. Seeking out additional leads, speaking to sources independent of each other and keeping one's ear to the ground progressively results in an LTO team dismissing the allegation or giving it credence.

Annex 1: Materials and Sources

OSCE

Human Dimension Commitments - Collection of all referenced OSCE Documents

Volume 1, Thematic Compilation, Third Edition, 2012

www.osce.org/odihr/76894

Volume 2, Chronological Compilation, Third Edition, 2012

www.osce.org/odihr/76895

Documents by the OSCE Decision-making Bodies

www.osce.org/resources/documents/decision-making-bodies

ODIHR Election Handbooks and Guidelines

www.osce.org/odihr/elections/119893

Election Observation Handbook: Sixth Edition, 2010

Handbook for the Observation of Election Dispute Resolution, 2019

Handbook on Observing and Promoting the Electoral Participation of Persons with Disabilities, 2017

Guidelines for Public Security Providers in Elections, 2017

Handbook on the Follow-up of Electoral Recommendations, 2016

Handbook for the Observation of Campaign Finance, 2015

Handbook on Observing and Promoting the Participation of National Minorities in Electoral Processes, 2014

Guidelines for Reviewing a Legal Framework for Elections, Second Edition, 2013.

Handbook for the Observation of New Voting Technologies, 2013

Handbook for the Observation of Voter Registration, 2012

Handbook on Media Monitoring for Election Observation Missions, 2012

Handbook for Long-Term Election Observers, 2007

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www.legislationline.org

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www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx

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OAS

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EU

Charter of Fundamental Rights

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IPU

Database on Women Representation in National Parliaments

www.data.ipu.org

An essential part of election processes are election campaigns, in which candidates compete for voter support. During election campaigns political actors energize society, invigorate and mobilize the electorate, but at the same time these are periods when fundamental freedoms are put to the test. Election campaigns provide an opportunity for all election stakeholders, including the authorities, political parties and voters, to demonstrate respect for fundamental freedoms and human rights.

The Handbook sets out the ODIHR approach to observation and assessment of election campaigns and their political environments. It draws on relevant international obligations and standards for democratic elections, with an emphasis on OSCE commitments, as well as international good practice. The Handbook provides a general set of considerations that can also be used by anyone interested in the assessment of a political environment and the conditions necessary for the conduct of genuine, pluralistic election campaigns.

