

## **OSCE Human Dimension Implementation Meeting**

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**Contribution of the Council of Europe**

### **Election Observation by the Parliamentary Assembly of the Council of Europe**

The Parliamentary Assembly of the Council of Europe has been observing parliamentary and presidential elections on a regular basis since the late eighties. The practice was called into being with the emergence of new democracies that declared their aspirations to embark on the road of European integration.

Initially, such observations were the result of ad hoc decisions and their operational modalities were put into place on a case-by-case basis. The same was true as far as cooperation with partner institutions on the ground was concerned.

Sometimes, findings of observer groups were not compared or properly discussed and post- electoral statements by various observer delegations were ill-coordinated. As a result, there were unfortunate instances where post-electoral statements by observer groups were either not consistent or even contradictory. Not only was this detrimental to the credibility of election observation as whole, but also this allowed the authorities of the State observed to engage in forum shopping, selecting a post- electoral statement that suited their interests most.

In the circumstances, PACE deemed it important to develop a coherent methodology of, and guidelines for, its own observations, as well as look into the operational modalities of cooperation of PACE observer delegations, or ad hoc committees, with observer groups from partner organisations and institutions.

First, the categories of States eligible for PACE observation, as well as the types of elections to be observed, were identified. In accordance with the Guidelines for the observation of elections by PACE - a document approved by the Bureau of the Assembly and continuously updated and refined - PACE observes national-level (parliamentary and presidential) elections in applicant States and States under the monitoring procedure, a special procedure put into place to monitor the State's compliance with commitments it subscribed to upon joining the Council of Europe; it may also observe that category of elections in States under a post-monitoring dialogue. The Bureau may also decide to observe national -level referenda. When special circumstances have been brought to its attention, the Bureau may decide to observe

elections in other States or territories. For example, following signature of a cooperation agreement with the Parliament of Kazakhstan, PACE observed parliamentary and presidential elections in that country. Once again, PACE has decided to observe elections to the Senate in this country in early October 2008. Given the Assembly's activities pertaining to the Middle East situation, PACE observed elections to the Presidency of the Palestinian Authority, as well as to the Palestinian National Council. PACE observed the recent parliamentary and presidential elections in Mexico, a country whose Parliament has observe status with PACE. Elections in some other non-member States have been observed as well over the years. Exceptionally, PACE may observe other types of elections in special circumstances. For example, in 2001 and 2002, PACE observed Kosovo-wide elections and municipal elections. The reason was the Assembly's attention to the political process in Kosovo, as well as the fact that those elections were organised by the OSCE and could thus not be observed by the organisers. The decision to observe was taken following a request from UNMIK and OMIK for PACE to observe.

While, in principle, no invitation is needed for PACE to send its observers to the category of countries mentioned above and observers may be dispatched even in the absence of a formal invitation (eg, Turkey, November 2002), it is always preferable to have an official invitation because it is the best guarantee that a meaningful programme of meetings can be put together. According to the Guidelines, a State's refusal to accept a PACE election observation mission should give rise to a debate at the part-session or Standing Committee meeting following the elections in question. This may result in sanctions such as, in the case of an applicant State, the freezing of the application procedure, or, in the case of a member State, the challenge of the credentials of the national delegation concerned.

A decision to observe an election is taken by the Bureau of the Assembly. The decision is based on the rolling schedule of elections prepared by the Secretariat which is an annotated list of upcoming elections. The Bureau decides on the size of the observer delegation whose membership is then based on proposals from the five political groups in the Assembly. The size of representation of each political group on the observer delegation is decided on the basis of the D'Hondt principle that takes into account the number of seats the group has in the Assembly. Thus, political balance of observer delegations is ensured. The Bureau also seeks to ensure a political balance over the year in terms of appointing Chairs of PACE election observation delegations.

From the administrative point of view, PACE election observation delegations are established in the form of ad hoc committees. In practical terms, this means that expenses of PACE parliamentary observers are borne by the respective national parliaments. PACE Secretariat, however, covers additional costs, such as interpretation, to and from, the two official Council of Europe languages, local transfers, meeting room rent, etc.

Recently, it has become an increasingly standard procedure for PACE to dispatch pre-electoral missions. Such missions visit the State concerned, as a rule, about one month prior to the vote, to assess the political climate in the run-up to the election and to evaluate that State's overall preparedness for a democratic election. A pre-electoral delegation is a cross-party group where all the five political groups of the Assembly should be represented. The Chair of the pre-electoral delegation will generally also lead the full election observation delegation.

A pre-electoral delegation normally has an intensive programme of high-level meetings in the State to be observed. They may include a meeting with the President and Speaker of the Parliament, the leadership of political parties or blocks running in the election or presidential candidates, the Chair of the Central Election Committee, the Chair of the Court of Law that deals with election-related complaints and appeals, a representative cross-section of civil society and the media, ambassadors of Council of Europe States, resident representatives of international organisations. Towards the end of the mission, a pre-electoral statement is issued by the delegation at a press conference. The statement itemises the findings of the delegation and puts forward concrete proposals regarding corrective action that needs to be taken by the national authorities concerned in time for the voting. When a full-scale observer delegation arrives on the ground, it pays special attention to identifying to what extent these findings and recommendations have been taken care of by the national authorities concerned. Such statements are also quite useful for PACE's institutional partners observing the election in question.

More often than not, a full-scale PACE observer delegation observes an election within the framework of a de facto International Election Observation Mission (IEOM) that also comprises observer delegations from the OSCE PA, the EP, as well as of the OSCE/ODIHR. Lately, NATO PA has joined in this informal election observation partnership. The IEOM normally has a joint briefing programme for parliamentary observers, as well as a joint de-briefing. The post-electoral IEOM statement is then drafted and negotiated at steering group meetings that include Heads of Delegation and senior staff. The statement is then presented at the joint post-electoral press conference.

In 2002, with a view to streamlining parliamentary cooperation in election observation, PACE came up with a proposal to sign a Memorandum of Understanding on a Parliamentary Troika on Election Observation. Despite an initial positive reaction from the then presidents of the OSCE PA and the EP, this project has not yet come to fruition.

Whether alone or acting within an IEOM, a PACE observer delegation produces a report that is presented to the next meeting of the Bureau of the Assembly and becomes part of the Bureau's progress report at the opening sitting of the next PACE plenary part-session.

Follow-up to the findings and recommendations of PACE election observation missions is normally done in the framework of the Assembly's monitoring procedure by the Committee concerned. However, in exceptional cases, when specific follow-up to observation missions' recommendations is deemed necessary, a post-electoral mission may be sent as well (eg. Ukraine 2002, joint post-electoral mission by PACE, OSCE PA and the EP; the 'former Yugoslav Republic of Macedonia', 2008.) The decision to dispatch a post-electoral mission to the latter country was dictated by the view of the observer delegation that imperfections that marred the 2008 elections in that country were systemic, rather than just election-related.

PACE is one of the two Council of Europe bodies involved in election observation, the second one being the Congress of Local and Regional Authorities of the Council of Europe. Whenever national-level and regional or local elections are held on the same date, observer delegations from PACE and the Congress work side-by-side, on the understanding, however, that the object of their respective observations is different and is determined by the respective mandates of the two bodies.

The way in which elections are held is indicative of the overall level of democracy and the functioning of democratic institutions in the State concerned. Furthermore, voter turnout is a clear criterion of the political health of that State in that it is a derivative of the degree of electorate's confidence in the political process.

For these reasons findings of election observation missions provide a wealth of information allowing PACE to draw conclusions on how the State concerned is complying with the obligations it assumed upon its accession to the Council of Europe. By the same token, conclusions are drawn on the degree of a State's preparedness to join the Council of Europe, in the case of applicant States.

Election observation operations are a cooperative exercise. The purpose is to help, and not to level criticism at a State and its institutions. Election observation is not a precise science. It is therefore important to have politicians - people with first-hand knowledge and long-time experience - acting as observers and being guided by their political flair and experience. And, it is particularly important that observers representing like-minded organisations and institutions act in concert, mutually reinforcing their respective findings.