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Guidelines for the observation of elections by the Parliamentary Assembly

Bearing in mind the objectives and the political nature of the Parliamentary Assembly's observation missions as well as the problems deriving from the past co-operation arrangements with other international institutions, the following Guidelines were adopted by the Bureau of the Assembly on 24 May 2004 and updated by the Bureau on 7 October 2005, 16 November 2006, 23 May 2007, 8 October 2010, 27 January 2012, 29 June 2012, 17 December 2012, 6 March 2014 and **5 March 2015**.

A. Elections to be observed

1. For the Parliamentary Assembly of the Council of Europe, the observation of elections plays an important role in the assessment of the overall political situation of the country in question. In practical terms this entails the systematic observation of elections in any state whose parliament has requested or enjoys special guest status, partner for democracy status, which has applied for membership, or is subject to the monitoring procedure.

2. Observation of parliamentary and presidential elections as well as of referenda in an applicant State or a State under the monitoring procedure should be an inalienable right of the Assembly. A State's lack of cooperation with the Assembly, its refusal to accept an election observation mission from the Assembly should give rise to a debate at the part-session or Standing Committee meeting following the elections in question. It may result in sanctions, such as a freezing of the application procedure or the challenge of the credentials of the national delegation concerned on the basis of Rule 8.2.b.(lack of cooperation under the Assembly's monitoring procedure).

3. The Bureau may also decide to observe parliamentary and/or presidential elections, as well as referenda, in a State that is subject to the post-monitoring dialogue.

4. The observation of regional and local elections is the responsibility of the Congress of Local and Regional Authorities of the Council of Europe (the Congress). If the Assembly receives an invitation to observe such elections and the Bureau decides to observe them, the Assembly ad hoc committee shall cooperate with the election observation mission the Congress may deploy. A report on these elections by the Congress, sent to the President, should be referred, on a Bureau's proposal, to the Monitoring Committee.

5. The Bureau of the Assembly may decide to observe elections in other States when exceptional circumstances have been brought to its attention.

B. Elections as a process

6. In conducting election observations, the Assembly shall proceed from the understanding that an election is not a one-off exercise, but rather a continuous process involving several stages, all of which need to be analysed in order to assess an election. The timeline, below, based on various Venice Commission documents, shall serve as an aid in the assessment process.

7. The process starts with the elaboration of electoral legislation. The quality of that legislation is a major, although not the unique criterion to assess an election.

8. Electoral legislation should not be subject to constant change. According to Venice Commission recommendations, "the fundamental elements of electoral law... should not be open to amendment less than

one year ahead of an election, or should be written in a constitution or at a level higher than ordinary law.”¹ In certain circumstances, exceptions to the one year rule could be accepted, namely where there is a need to rectify, through legislation, unforeseen problems or to provide redress to violations of internationally recognised rights where they had been built into the electoral law.

9. The second stage starts with the date when an election is called. That date, in normal circumstances involving regular elections, should be reasonably distant from the voting day to allow all political stakeholders to prepare for an electoral contest.

10. The third stage starts with the opening of the electoral campaign.

11. The fourth stage is the voting day proper, and the vote counting.

12. The next stage is the declaration of results of an election, followed by a complaints period stage.

C. Regarding observation and co-operation in the field

13. Considering the role played by OSCE/ODIHR in the field, the Assembly should stress the political objectives of its participation in the observation process: full respect of Council of Europe values and standards. This should be possible thanks to the Assembly’s comparative assets such as the high political level of its delegations and the experience of its members.

14. Practical assistance to Assembly delegations to observe the elections, particularly the organisation of the programme for the observation mission, should be provided by the national parliament, in order to supplement properly the programme for short-term observers organised by OSCE/ODIHR.

15. Co-operation with OSCE/ODIHR and other international organisations will be continuous during the observation process in order to ensure, in so far as possible, that assessments of the elections do not differ. However, if, after the election, a joint final assessment cannot be achieved in the framework of the IEOM, the Assembly’s ad hoc committee reserves itself the right, to hold -if necessary- its own press conference and issue a separate press release containing its own assessment. In this respect, it is essential that the Assembly’s ad hoc committee, when organising briefings, invites the OSCE/ODIHR. Reciprocity is expected in briefings organised by OSCE/ODIHR.

D. Regarding the practical organisation of the observation

16. On the basis of past experience, the following rules will be applied:

i. the Assembly will observe elections mentioned in Section A above (any refusal to send an invitation will constitute an evaluation criterion in itself);

ii. the Assembly observers will receive accreditation from the Central Electoral Commission; the national parliament concerned will be responsible for facilitating the issuing of this accreditation;

iii. the ad hoc committees will cover a geographical area of the country which is as wide as possible when observing elections. Members of the ad hoc committee must be ready to accept deployment beyond the capital city of the country in which the elections are observed.

iv. the membership of ad hoc committees for elections will vary between 5 and 40 members and include any already appointed rapporteurs of the Committee on Political Affairs and Democracy, Committee on Legal Affairs and Human Rights and the Monitoring Committee for the country concerned; in special cases the Bureau can decide to increase this number. The composition of the ad hoc committees is determined according to an appointment system taking into account the numerical size of the political groups on the understanding that each political group should be represented;

v. while rapporteurs for the monitoring of, or post-monitoring dialogue with, a given country should be encouraged to join an ad hoc committee to observe an election in that country, they should not be appointed chairpersons thereof. This is to ensure a distinction between election observation as such and monitoring and post-monitoring dialogue in the context of which the findings of an ad hoc committee are followed up.

Rapporteurs for the evaluation of the partnership for democracy of a given parliament should be encouraged to join the relevant ad hoc committee to observe election; however, they should not be

¹ Venice Commission (CDL-AD(2010)037).

appointed chairpersons thereof. Where the said rapporteurs join an ad hoc committee to observe an election, their participation in the ad hoc committee shall be *ex officio*, and they shall not be included in the quota allotted to their political group within the meaning of paragraph iv;

vi. the Chairmanship of the ad hoc committees shall rotate between political groups to ensure, generally, an overall political balance over a 12-month period. The committee chairs shall not be nationals of neighbouring countries of the country where elections are being observed;

vii. a standard programme will be established for observation missions: three days for political meetings (organised by the national parliament), one day for the elections themselves (with cars, guides and interpreters paid for by the Assembly), one day for evaluation/assessment and the press conference;

viii. where the Bureau deems it necessary, a pre-electoral and/or a post-electoral 5-member cross-party mission may be dispatched;

ix. to enhance the mission's public profile, the ad hoc committees will be referred to as "delegations" headed by a "leader of the delegation" appointed by the Bureau;

x. while every effort should be made to ensure a political balance of ad hoc committees to observe elections, in the event when some political groups fail to come up with candidates while others put forward more candidacies than they are entitled to, the principle of a political equilibrium may be foregone in the interests of having a strong presence of the Parliamentary Assembly of the Council of Europe during election observation. In such circumstances, a notification by the Secretary General of the Parliamentary Assembly will suffice;

xi. political groups should bear it in mind that any appointment to an ad hoc committee to observe elections should aim to ensure the principle of gender balance of such a committee. Political groups should endeavour to include, in the list of representatives appointed, members of the under-represented sex in the same percentage as is present in the group;

xii. political groups should bear it in mind that any appointment to an ad hoc committee should respect fair geographical representation and be based on the candidate's express capability, language-wise, to meaningfully participate in the work of the mission, in particular, given that on the spot the Council of Europe only provides interpretation to and from English or French. It should be pointed out that English is the de facto working language of the OSCE/ODHIR election observation missions. At internal meetings of the ad hoc committees, in addition to the members, the only persons authorised to participate are members of the Council of Europe Secretariat. In exceptional cases, ad hoc committee members may be accompanied at internal meetings of ad hoc committees by interpreters;

xiii. members of an ad hoc committee are encouraged to plan their travel arrangement in a way that would allow them to participate in the briefings in their entirety, to observe on election day and to participate in the ad hoc committee debriefing on the morning following the elections. It is understood that those members who are unable to attend the debriefing in the capital because they were deployed outside it may report their conclusions by phone;

xiv. members of the ad hoc committee should be aware that as far as the funding of their participation in the work of the ad hoc committee is concerned, Article 38 of the Statute of the Council of Europe shall apply ("*Each member shall bear the expenses of its own representation in the Committee of Ministers and in the Parliamentary Assembly*");

E. Local staff

17. Staff recruited locally by the Council of Europe for the specific purposes of a pre-electoral, electoral or post-electoral mission (eg interpreters, drivers) are expected to declare any actual or potential conflict of interest by signing a written statement and not to take any action which would cause damage to the reputation and integrity of the mission.

F. Conflict of interest and code of conduct of members of ad hoc committees

18. Members of ad hoc committees for the observation of elections shall abide by the provisions of the Code of Conduct for members of the Parliamentary Assembly of the Council of Europe appended to Resolution 1903 (2012).

19. In particular, members of ad hoc committees, in the accomplishment of their pre-electoral, electoral or post-electoral duties, shall avoid conflicts between any actual or potential economic, commercial, financial or other interests on a professional, personal or family level and their election observation activity in the country concerned; if a member is unable to avoid such a conflict of interest it should be disclosed.

20. Members shall not request or accept any fee, compensation or reward intended to affect his or her conduct as a member of an ad hoc committee. They shall avoid any situation that could appear to be a conflict of interest or receiving an inappropriate payment or gift.

21. All candidates for membership of an ad hoc committee, at the time of putting forward their candidacy shall make a written declaration regarding the absence or otherwise of any actual or potential conflict of interest concerning them or members of their families, whether related directly or indirectly and/or with whom they are in regular contact, in connection with the country concerned by an election observation. In accordance with paragraph 14 of the Code of Conduct, they shall also register with the Secretariat of the Assembly any gifts or similar benefits (such as travel, accommodation, subsistence, meals or entertainment expenses) of a value in excess of 200 euros that they have accepted in the last twenty four months from the authorities of the country concerned, either directly or indirectly.

22. The aforementioned declarations shall be made available to the Bureau when it approves the composition of an ad hoc committee. Failure to sign such declarations shall disqualify the member concerned from being appointed to the ad hoc committee in question.

23. Members of an ad hoc committee shall refrain from engaging in public statements interviews, press conferences or communications via social networks which could contradict or conflict with the final assessment made by the ad hoc committee. This applies at all stages of the process: during the pre-electoral period, including in the context of a pre-electoral mission, during and following the election day, including in the context of a post-electoral mission.

24. Members of an ad hoc committee shall abstain from engaging in public activities which could appear to interfere in the electoral process or could be considered as partisan. This applies at all stages of the process: during the pre-electoral period, including in the context of a pre-electoral mission, during and following election day, including in the context of a post-electoral mission.

25. Additionally, the provisions stipulated in the Code of Conduct for rapporteurs of the Parliamentary Assembly (Resolution 1799 (2011)) shall apply *mutatis mutandis* to chairpersons of ad hoc committees over and above the provisions of the Appendix to Resolution 1903 (2012).

26. Alleged breaches of paragraphs 18-21 and 23-25 above shall be dealt with in the manner prescribed in paragraphs 17 to 20 of the appendix to Resolution 1903 (2012).

G. Election observation reports

27. The Chairperson of an ad hoc committee shall draft a report on the election observation mission, which is submitted to the Bureau and subsequently to the Assembly as part of the progress report of the Bureau.

28. This report shall be based on the information received during the meetings held during the mission, in line with the press release and preliminary findings and conclusions of the International election observation mission (IEOM), and take into account the comments and assessments of members of the ad hoc committee regarding election day made during the ad hoc committee's meeting on the day following the vote or in written form within a deadline fixed by the Chairperson, as well as relevant documents of the Monitoring Committee, the Venice Commission and other reliable sources. In principle, all members of the ad hoc committee shall be consulted on the draft before the report is issued.

H. Form of Election Observation by the Assembly

29. The observation of elections by the Assembly can take place in one of the following three forms upon decision of the Bureau.

a. *Election Observation Missions.* These take the form of an ad hoc Committee set up for this purpose. The size may vary from 5 to 40 members, Committees are composed on the basis of proposals by the Political Groups taking into account the D'Hondt rule. The Chairperson of the ad hoc Committee is appointed by the Bureau of the Assembly. Chairmanship rotates between political groups. Election Observation

Missions issue a statement of their findings immediately following the elections, where applicable in the framework of an IEOM. A pre-electoral mission shall be conducted following a Bureau's decision.

b. *Election Assessment Missions.* These take the form of an ad hoc Committee specifically set up for this purpose. Election Assessment Missions are normally composed of five members, but never less than three members, in order to guarantee a minimum political and geographical balance of the ad hoc Committee. The Chairperson of the ad hoc Committee is appointed by the Bureau. Chairmanship rotates between political groups. The ad hoc Committee will report its findings in the form of a memorandum by its Chairperson to the Bureau. No pre-electoral mission will be conducted.

c. *Presence on the Occasion of Election* of Assembly members during and/or just before an election without a formal observation or assessment of it. Accordingly, the Bureau does not set up an ad hoc committee but decides on the dates of the mission. These missions are normally composed of the country rapporteur(s) of the Monitoring Committee or the Committee on Political Affairs and Democracy. In exceptional cases, the Bureau can appoint one of its members to participate in these missions. This mission will report their findings in the form of a memorandum to the Bureau.

30. Election Observation Missions for which less than five members are identified shall be considered as Election Assessment Missions. In the event that three members cannot be identified for an assessment mission, the mission shall be cancelled. Time allowing, the possibility of ensuring a presence could then be considered by the Bureau of the Assembly.

Appendix

DECLARATION ON CONFLICT OF INTEREST OF CANDIDATES FOR ELECTION OBSERVATION MISSIONS OF THE PARLIAMENTARY ASSEMBLY

Ad hoc committee to observe the elections in ...

1. I hereby declare that I have no actual or potential economic, commercial, financial or other interests on a professional, personal or family level in connection with the country concerned by the election observation. **This declaration concerns me directly, as well as the members of my family, directly or indirectly related, and/or with whom I am in regular contact.** *

I hereby declare that I have an actual or potential conflict of interest in connection with the country concerned by the election observation. **This declaration concerns me directly, as well as the members of my family, directly or indirectly related, and/or with whom I am in regular contact.** *

Please specify the nature of the actual or potential conflict of interest:

.....
.....

2. I also declare that I have not accepted in the last twenty four months gifts or similar benefits, of a value in excess of 200 €, from the authorities of the country concerned, either directly or indirectly². *

I also declare that I have registered with the Secretariat gifts or similar benefits, of a value in excess of 200 €, that I have accepted in the last twenty four months from the authorities of the country concerned, either directly or indirectly³. *

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3. I note that the present declaration will be made available to the Bureau when it approves the composition of the ad hoc committee.

Name

On

Signature:

* Please tick the appropriate box.

² Benefits (such as transportation, social or cultural events, meals, etc.) the costs of which are borne by the authorities are excluded from the declaration requirement on condition that these benefits are expressly mentioned in the official programme of the meeting (e.g. Standing Committee, committee or sub-committee or ad hoc committee or sub-committee), visit or mission (for example by the President of the Assembly, a rapporteur or Assembly representative)

³ Idem¹.