

Draft OSCE PA EOM Guidelines

Revision 3 of February 1, 2019, following the last meeting of the OSCE PA Bureau and input from Bureau members

Explanatory note

1. Parliamentary Election observation has been and is under attack. This stems from several factors:
 - The Council of Europe Parliamentary Assembly (PACE) has investigated into a scheme of parliamentary election observers who allegedly accepted bribes related to their observation activity.
 - Individual members of parliament accept invitations from governments to observe and issue dissenting statements regarding the assessment of the conduct of the elections.
 - Incumbents see parliamentary election observation as biased because of political activities of individual parliamentary observers allegedly siding with the opposition or even revolutionary or extremist groups resorting to violence.
 - Some participating States are trying to construe issues that damage the credibility of election observation.
2. The OSCE PA's 2018 Berlin Declaration has addressed the second issue by calling on national parliaments "to refrain from participating in election observation processes that are not based on well organized and transparent processes with a systematic methodology". The third issue has led to vivid discussions in the context of several recent election observation missions.
3. During the Berlin Annual Session, I received the task to develop guidelines that complement the current Code of Conduct for Election Observation Missions (EOMs) with rules regarding to possible conflicts of interests of PA Members who want to be observers. Following this tasking, I have also been asked to take a comprehensive look at OSCE PA procedures regarding its election observation activities and develop a set of rules that harmonizes and improves the practice with the aim of preserving the overall credibility of election observation. The tasking included (A) procedural issues like the nomination and appointment of observers, the nomination of the leadership of the mission, the drafting of the statement, but also (B) the substantial issue of how to avoid any appearance of possible bias of the mission or its members.

A. On Procedures

1. The process of creating an EOM follows several steps. Most importantly, because of some partial deviations from the PA Rules of Procedure in past practice, the following needs to be clarified:
 - a) **An EOM is an OSCE PA activity/event:**

The host country invites the OSCE PA. The PA's Rules define the OSCE PA as being constituted by its members. Therefore, the observation is a PA activity carried out by OSCE PA members. This distinguishes the OSCE PA from the ODIHR. Their short-term observers are seconded by participating States, whereas the PA has its members. PA delegations are not merely duplicating the efforts of their governments as a seconding agency by supplying national MPs or other persons for the mission. The OSCE PA and its members have full ownership of the observation mission.
 - b) **Therefore, PA observers in the strictest sense are the members of the PA only:**

According to the OSCE PA Rules of Procedure (RoPs), in PA meetings and events, each participating State has a limited number of members as defined in the Rules, and alternate members substitute members only if and when a delegation cannot send as many full members as it is entitled to. Non-members' participation in OSCE PA activities is foreseen only in very few instances explicitly listed

in the Rules. Only members can represent the PA to the outside subject to conditions named in the RoPs.

Non-member participation in election observation is conceivable only through a system of secondments by national parliaments to the OSCE PA EOMs. Such a system that adds selected parliamentarians from participating States would have to be governed by criteria, rules and limitations creating safeguards against misuse, for instance by creating targeted tailor-made observation teams, and preserve the accountability of the whole mission towards the PA. I am not aware that the introduction of such a system, which might also require a Rules change, has ever been transparently debated in decision-making bodies of the PA. On the contrary, I have been made aware that some PA Heads of Delegations were uninformed about exceptions made to the membership requirement.

Consequently, *de lege lata*, admission of non-members does not seem to be admissible.

I have been urged by Bureau Members to draft Rules that allow for the secondment of non-members. One argument has been that there is a general interest in a high observer turnout, the other one was based on difficulties of member delegations to recruit sufficient observers from among delegation members. I have therefore taken a close look at the pro and the con of a secondment system:

NATO PA, PACE and EU election observation is solely membership-based. We have never made it transparent that our observation is not. The OSCE PA has always taken pride that it is has the largest parliamentary observation missions and has used this as an argument when claiming leadership over the others. This is a bit unfair towards the other organizations, if we do not depart from the same concept. No outside observer who reads our publications about our election observation would imagine that OSCE PA observers might be members of the OSCE PA. If it becomes a trend that significant parts of our observer delegations are not members of the Assembly, one could ask why the secondment is not handled directly by the ODIHR.

And there are very serious problems linked to the acceptance of non-member observers, which are in direct contradiction to core arguments that the OSCE PA has used in its debates regarding our cooperation with the ODIHR. The OSCE PA`s members are, as a rule, much more familiar with the OSCE acquis than other national parliamentarians. They are also bound by PA decisions and rules, have been involved in their creation and can move amendments to them.

Most importantly, there is an issue of accountability: PA members are confronted by their colleagues from the country observed and can be held accountable by them as well as other members, not only in public debates, but also through elections to PA bodies. Furthermore, our Rules of Procedure have established a system that ensures a certain geographical balance of delegations, and the PA expects that the composition of delegations reflects the political spectrum of a country`s parliament and ensures that women are included. Secondments of non-members threaten this balance and could be misused to nominate only observers that have a specific view regarding the elections. Stakeholders and PA members that disagree with EOM findings could see the unexpected appearance of non-members with a strong interest in a specific election as evidence of bias and even suspect manipulation regarding the composition of the EOM.

In short, the issue is intimately linked to the ethics of our observation activities. Of course, we would like to show a strong observer presence in the country. However, our strength is not only determined by quantity, but rather by quality.

- c) **Exceptions must be in the interest of the PA**, and necessary to achieve the aim of an effective OSCE PA election observation and determined in an orderly process. **There are some traditional exceptions from the membership requirement which are a consequence of our Rules and in line with transparent practice.**

Legitimate exceptions are the following: As in other PA events, Partners for Cooperation are also invited to contribute, and Secretaries of Delegations accompanying members of their delegation can be registered as participants (observers) as well, without this influencing numerical calculations. The same is true, in exceptional cases, when parliamentary observers (Rule 45 RoP)

that usually join the IOEM cannot send a full delegation due to organizational problems. The OSCE PA President may then permit them to participate in the OSCE PA observation alongside the OSCE PA observers.

Despite all concerns outlined above, I have tried to find a carefully balanced way to accommodate the problems raised by two Bureau members by restrictively allowing for the secondment of non-member parliamentarians. I leave it open whether this would require a Rules change. One exception would be granted when there are specific constraints resulting from the PA work schedule, and another one which could be applied when a specific threshold of interested observers cannot be reached because of constraints of individual delegations resulting from their parliamentary business. The latter exception needs to be accompanied by strong safeguards that prevent misuse by Heads of national PA Delegations and ensure a minimum of OSCE Election Observation knowledge and accountability of the secondees. I was informed that the Swedish example gives a possible indication how this can at least partly be achieved: through decision-making by the Swedish Speaker and training of the non-members. An additional requirement needs to be that non-members declare to be bound by the OSCE acquis and all OSCE PA documents and be present whenever the election observation report is discussed. And, finally, it must be made sure that there remains a strong majority of members in the mission.

2. The **decision to deploy a mission** has always been taken by the OSCE PA President in consultation with the OSCE PA International Secretariat, based on an invitation received by the host country and a needs assessment. This practice has been very successful and yielded excellent results, which is why it should be maintained. However, for the sake of transparency, the President should inform the Bureau – either orally or by written communication – of his decision before implementing it.
3. The **appointment process** consists of several steps: The OSCE PA delegations nominate observers, regularly through their secretariats. The nomination is accepted after checking whether the necessary requirements have been met by the observer, who is then appointed by the OSCE PA President and registered by the host country.
4. Apart from certain formalities, **observers must meet strict standards in order to qualify.** The Declaration of Principles for International Election Observation, which has been promoted by the United Nations and endorsed by the OSCE PA, stipulates the following: **“No one should be allowed to be a member of an international observer mission unless that person is free from any political, economic or other conflicts of interests ...”** This is unequivocal and must be implemented by the PA by defining criteria how to establish that a person is free from such conflicts of interests. A selective implementation of these commitments would undermine the credibility of OSCE PA election observation. The substance of this is discussed under B. Since observers are nominated by their delegations who also have the most intimate knowledge about their position and conduct, they have the primary responsibility to check whether the candidates meet the required standards. In no way can the OSCE PA International Secretariat investigate into this. It has to rely on the honesty of observer candidates based on the principles of transparency and accountability to the OSCE PA and to the national electorate.
5. A necessary prerequisite for achieving credible election observation missions is therefore to ensure that a potential observer is aware of the importance of avoiding any impression that his/her assessment could be impacted by conflicting interests. Responsible behavior for a member would be to not even apply to be an observer when he has a bias for or against electoral stakeholders or knows that there are facts in relation to him/her that might create the impression of such bias. A possible way to increase observers`awareness would be to adopt a pertinent PA resolution. **A checklist that anyone applying to be appointed as an observer must sign and hand in together with his/her application will hopefully raise candidates` awareness, enhance transparency and create a tool to sanction non-disclosure of conflicts of interest.** PACE, for instance, has an extensive questionnaire that candidates need to tick off. The checklist is a prerequisite for the appointment of an observer, while the Code of Conduct applies to the conduct of appointed observers during a mission.
7. The checklist could be **made public in order to increase confidence** via enhanced transparency.
 - a) If a checklist signed by a member who wants to observe leads to doubts, they should be addressed first by the leadership of the national delegation.

- b) Owing to lack of appropriate resources, is not feasible for the PA or its International Secretariat to engage in a material investigation of possible or alleged conflicts of interest. However, once a nomination has been received by the persons in charge of the mission, they should look through it in case there is an established potential conflict of interest. This information should be given to the delegation.
 - c) As a last resort, if any electoral stakeholder brings forward facts along with supporting evidence substantiating that the information given by the observer was incorrect, these facts should be assessed by the leader of the PA delegation in the EOM, assisted by the Secretariat. If the leader comes to the conclusion that the facts have been sufficiently corroborated, the nominee should not be appointed as an observer.
 - d) In severe cases like fraud or a flawed declaration that is proven wrong, the member should also be excluded from any further observation mission.
8. Delegations that persistently nominate observers despite obvious issues regarding the honesty of their members with regard to the declaration should equally face consequences like being banned from election observation.
9. The exact size and composition of the mission can never be established in advance. Delegations should therefore prepare the list showing **an order of precedence of the nominees**. This is necessary, since, due to a number of circumstances, it cannot be guaranteed that a nominated observer will be appointed.
- a) One of these circumstances is the scrutiny of the observer's eligibility.
 - b) Another one results from the following: No delegation should be dominant in an EOM. While the effective size of PA delegations, if applied as proposed, will automatically mean for the majority of delegations that their observers will not create a geographical disbalance, some of the larger delegations need to be subjected to an additional ceiling. Following ODIHR practice, such a ceiling has usually been set at 10 percent of the overall size of the mission. Apart from the fact that this seems unreasonably high in the light of 56 delegations that could nominate members, the nominal figure can be determined only once the full delegation has been appointed and all deadlines for late nominations have expired.
10. Standard rules for the deployment of observers provide for a deployment in pairs. They should be from different countries and backgrounds. One Bureau member has requested that OSCE PA members who belong to a national minority in one country and observe elections in another country where the same ethnic group represents the majority or is part of the incumbent ruling coalition are prevented from observing in one team jointly. However, since homogenous teams are an issue also for the ODIHR, it would be insufficient to establish such a rule for teams with ethnic minorities only. If it should be made a general rule that pairs have to be from different countries, this would create an enormous amount of practical problems for reasons like mother tongue interpreters. The clearly expressed will of many members does not seem to make this possible. Heterogeneity of observer teams has therefore been included in the form of a recommendation, not as an obligation ("should").
11. I have also included additional guidelines regarding the process, and in particular some rules regarding the OSCE PA EOM leadership and cooperation with other organizations. They are largely self-explanatory.

B.

Preservation of the observation missions` credibility

I.

Introduction

II.

General Rules of Due Process

1. **In order to preserve the integrity of high-standard election observation and to avoid any damage to the credibility of OSCE election observation, it is crucial that observer missions make sure that there cannot be any fact-based appearance of a potential conflict of interest potentially casting a shadow of doubt about their impartiality. The institutions involved are expected to eliminate to the greatest extent possible any such fact-based appearance of potential bias or prejudices.**
2. When it comes to the determination of what level of impartiality needs to be applied, the following should be taken into consideration: EOM assessments have a severe impact not only on the political discourse in the country observed, but they can also have international ramifications against which there is no legal recourse. Consequently, the “findings and conclusions”, despite their basically political nature, are seen by many as quasi-judicial. This implies that basic rules of due process must apply, including standards for persons exercising judicial functions.
3. An important principle regarding potential conflicts of interest is that there does not need to be an actual misconduct by the person concerned. Sufficient is if credibly substantiated facts could - in the eyes of a reasonable stakeholder in the process assessed - appear to indicate a conflict of interest suited to potentially impacting the impartiality of the person (in this context, “reasonable” means plausible to an objective third party). In other words: **Decisive is the perception of the observed, not the intent of the observer.**

A wide-spread misunderstanding is the following: “Yes, I know that I (or my country, my political party, my government) have serious issues that might be seen as potentially impacting on my impartiality, but I know how to make a distinction between the issue and my job as an observer, and my political position or my conflicting interests will not influence my judgement, nor will I come to the country with a political agenda”. This understanding is obviously wrong. The point is not the subjective view of the observer (or his group, his political friends, his delegation etc) whether he/she is effectively biased. Rather, none of the electoral competitors should reasonably perceive any potential conflict of interest in the person of an observer that might or might not lead to bias.

A second misunderstanding is the following: “After all, we are a group of observers composed of politicians of so many geographical, ethnic and political backgrounds that in total this neutralizes any conflict of interests.” While it is true that parliamentary EOMs usually gather politicians from several countries and with a pluralist political background, there are many reasons why this does not solve the problem:

First of all, an EOM is not a balanced representative mix of members. Its composition is almost accidental. Second, the assessment is not resulting from a decision taken by the observers by a qualified majority or consensus. Rather, it takes into account observations from the parliamentary de-briefing, and the observers’ direct input to the ODIHR statisticians, with the following consequence:

A very important element of the overall assessment of an election is the number of questionnaires that assess the process in a polling station as “bad” or “very bad” (the only permitted alternative is “good” or “very good”, no intermediate judgement is possible). Put before the choice between “good” or “bad” and knowing that there are almost always some procedural errors, it is all too human that psychology will have its toll. Even a small number of such biased assessments is not negligible, because ODIHR statisticians start seeing an election as tainted already when the number of negative assessments of the voting process exceeds 5 percent. Therefore, a small percentage of biased observers could tilt the result of the observation, while the remaining 95 percent do not really count.

4. This means:

- The subjective belief of the observer or of his political friends that he/she is able to observe in a non-partisan way is irrelevant.
- It does not matter whether the observer's stance which leads to the appearance of bias is ethically correct or widely accepted politically, as potential bias is not necessarily a matter of personal wrongdoing.
- And, finally, even if substantiated facts are brought forward by a stakeholder with the ill intention to discredit the process, it would be wrong to dismiss such allegations, instead of assessing them objectively, because otherwise the ill intention will bear fruit.

III.

Specificities of parliamentary election observation

1. This said, a central commitment of the OSCE PA UN Declaration of Principles for International Election Observation, which the PA has signed and endorsed and that the OSCE PA now has to implement is this one: „No one should be allowed to be a member of an international election observation mission unless that person is free from any **political**, economic or other **conflicts of interest that would interfere with conducting observations accurately and impartially ...**“

When implementing our commitment to ensuring the impartiality of observers, we are not allowed to be selective, so we also have to define which facts could indicate potentially harmful political conflicts of interest. Logically, these facts have to be established *before* the mission is composed by appointing observers.

2. If this commitment is interpreted narrowly, it collides with the character of parliamentary election observation. Parliamentary observers are elected politicians representing the citizens of a country, speaking out on national and international issues and usually organized in political parties which often are affiliated to international party associations. Politicians with a special interest in international affairs will frequently have addressed issues regarding developments in other OSCE countries, taking positions on persons and issues that might also become contested issues during the election they want to observe, and many, in some parliaments most of them are also part of friendship groups with other countries.
3. **In order not to exclude parliamentary election observation altogether**, it is therefore necessary to draw a line between those political activities that do not compromise the overall credibility of the election observation, and those that transgress this line. The criteria should be a) the character of the activity and b) its proximity to the observation exercise.
 - a) The Code of Conduct, which all observers have had to sign, speaks of „bias or preference in relation to national authorities, political parties or candidates or contentious issues in the election process“ and „public activities which could appear to interfere in the electoral process or could be considered as partisan“. It is the reasonable fact-based perception of a stakeholder in the election that we measure our credibility against.
 - aa) Therefore, in order not to make parliamentary election observation altogether impossible, normal parliamentary debate and decision-making, even if it relates to general issues in the host-country, would not be considered to impact on the perception of impartiality, since a reasonable person would not see it as limiting the role of a member of parliament in his/her country. Law-making is not affected in any way, nor is scrutiny of the government, because these are internal affairs of the country. This soft interpretation of the Declaration of Principles regarding participation in official state activities matches the Code of Conduct which allows for meetings with national authorities and/or political actors inside the official IEOM program.
 - bb) Also, political activities that demonstrate general sympathy for the political camp of one of the stakeholders at a time outside of the present electoral campaign seem licit in the context of parliamentary election observation. Plus, as stated in the explanatory note, in the runup to elections it is not problematic either to remind stakeholders of OSCE Commitments or past ODIHR recommendations. This accepted ODIHR practice is an example. It also remains possible that the

parliament that sends election observers debates human rights issues or other issues of general nature related to the host country. This is a matter of common sense.

- cc) On the other hand, any statement that publicly expresses one-sided support to certain competitors, or any activity that provides them with material support, could reasonably be perceived by the other competitors as calling the impartiality of parliamentary election observation into question (such moves have already led to serious difficulties for our missions in the past). For instance, a politician attending a party convention that endorses the candidacy of a ruler and publicly praising him as the only acceptable candidate shortly before he starts his activity as an observer does not convey a perception of the impartiality required to be an independent observer. Another example would be interference in issues of national minorities by kin observers.

If the PA omits such political conflicts of interest from the list of harmful conflicts, the credibility of the whole exercise is at stake. Members of Parliaments who wish to go on an election observation must behave responsibly and use appropriate political judgement avoiding individual action or language that creates the impression of a biased approach. Already now many NGOs express doubts about the ability of politicians to be impartial. A potential observer should also refrain from individually assessing the conduct of electoral stakeholders at an undue time ahead of an election, because this interferes with the mandate of the observation mission and is reserved for the preliminary post-election statement. This is not a limitation of free speech, but an issue of incompatibility between being an observer and being partisan.

- b) The preventive concept of the Declaration of Principles logically extends the quarantine period beyond the period after the observer's appointment, because the facts that are used in order to assess his/her impartiality must have been created before the appointment. Otherwise the commitment to exclude certain members would not make sense. Also, demonstrating bias before having been appointed is as damaging for the observer's credibility as misconduct during the observation.

A reasonable moment from which onwards these activities are harmful seems to be six months before election day. At that moment, in many countries, political parties will already have chosen their candidates, the printing of election material is in progress, etc. It is very rare to have a snap election that is not at least under discussion during this time period. Also, two months ahead of an election, ODIHR Long Term Observers might already be in the country, so that the OSCE observation is already in progress. An exception from the six months-rule has been made for snap elections, in order to rule out any unreasonable handling of the guidelines.

- 4. There are no mechanisms of judicial or other oversight over the application of rules of due process by the EOMs. At the same time, there is a strong need to maintain the autonomy of election observation and avoid creating the impression that the observed chooses the observers. Therefore, the only way to address issues regarding the selection of observers and their conduct during the observation is through a self-regulatory mechanism. The basis for the mechanism will have to be an agreed set of standards for the selection and the conduct of election observers.

IV.

Existing documented standards

- 1. The OSCE PA has repeatedly underlined the importance of parliamentary election observation as essential for the development of democracy, as long as it is done as part of a systematic observation based on a sound and widely accepted methodology. The methodology used by OSCE observer missions both from the Parliamentary Assembly and the ODIHR constitute such a widely accepted methodology, which is also applied by other observer organizations. The reference to the methodology implies a reference to the existing Code of Conduct for observers applied during election observation missions.
- 2. Existing instruments containing standards are:
 - a) The already mentioned Declaration of Principles for International Election Observation, which has been promoted by the United Nations and endorsed by the OSCE PA, stipulates the following: Election observation **"must be conducted on the basis of the highest standards for impartiality concerning**

national political competitors and must be free from any bilateral or multilateral considerations that could conflict with impartiality. ... No one should be allowed to be a member of an international observer mission unless that person is free from any political, economic or other conflicts of interests ... The Declaration also spells out that election observation must be conducted with respect for the sovereignty and the laws of the host country, indicating that active disrespect for this principle would be seen as also excluding individuals from the observation.

- b) The Code of Conduct for International Election Observers calls for “strict impartiality of observers at all times, including leisure time”.
- “They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, ...
 - or in relation to any contentious issues in the election process”.
 - “Observers also must not conduct any activity that could be reasonably perceived as favoring or providing political gain for any political competitor in the host country, such as wearing or displaying any partisan symbols, colors, banners
 - or accepting anything of value from political competitors”.
 - Observers shall declare any actual or potential conflicts concerning any economic, commercial or financial interests on a professional, personal or family level in the country concerned.
 - They shall also declare their membership in friendship groups within their national parliaments with the country concerned.
 - From the moment of their appointment as observers, they shall refrain from engaging in public statements, interviews, press conferences or communications via social networks which could contradict the final assessment made by the mission.
 - They shall also refrain from engaging in public activities which could be considered as partisan, including meetings with national authorities and/or political actors outside the official program of the mission.
- c) In addition to rules regarding corruption, and to a Code of Conduct that regulates behavior during the active on-site observation, PACE has created rules regarding the selection of observers. However, the steps taken by PACE are to a large extent a response to cases of political corruption through foreign governments or groups working in their interest (“Caviar Diplomacy”). They do not explicitly address similar misconduct stemming from opposition groups or foreign interference. According to these rules, PACE members
- may not observe elections in their own countries.
 - Members who took part in “non-official” observation missions sponsored by or undertaken at the invitation of a State, a parliamentary, governmental or non-governmental organization, association, foundation or any other natural or legal person should also not be appointed.
 - Specific rules apply to chairpersons of PACE observer missions. For instance,
 - i. chairs shall neither be a national of a neighboring country
 - ii. nor a member of a friendship group in his/her national parliament with the country where the election will be observed.

V.

Potential conflicts of interest

1. Potential conflicts of interests can arise from the following:
 - Corruption
 - Potential economic benefits for the observer or close family from the outcome of the elections

- Close family ties to or personal or economic dependence from electoral contestants or their campaign teams
 - Previous participation in election observation in the country sponsored by the country's government, lobby groups working on behalf of the government, or any other electoral stakeholder
 - Previous exclusion from the observation of elections in the host country based on a decision by the EOM leadership
 - Being from a country that is directly or indirectly - for instance by giving military support to combatants - engaged in an acute armed conflict or another bilateral dispute of similarly serious nature with the host country
 - Litigation against electoral competitors
 - Active substantial support to the campaigns of one or more of the stakeholders
 - Active or paid participation in or providing support to political campaigns in the country
 - Public political statements of the individual member within six months before election day, or after the day on which the election is officially announced, whichever is the later date, that would constitute a display of partisanship and be qualified as a breach of the Code of Conduct if made during the observation. This also includes statements of racist or nationalist nature and hate speech addressed to the country observed, its people or groups within the country. Participation in normal parliamentary business or in other official functions of the observer's country does not indicate a conflict of interest, even when it deals with the host country.
 - Active and grave violations of national laws or against the sovereignty of the country observed
 - Entry bans into the country for reasons unrelated to political or election observation activity in the host country
 - Membership in groups that aim at overthrowing the government of the host country
 - Support for groups that resort to violence in their attempts to overthrow a government or change the political system of a country
 - Additionally, for the leadership of EOMs:
 - being from a neighboring country,
 - being member of a parliamentary friendship group with the country observed
2. The list does not include parliamentary friendship groups as constituting a conflict of interests for ordinary observers. Parliamentary friendship groups gather MPs that have extensive knowledge about a country. In certain cases, they recruit a high number of MPs who want to demonstrate the friendly links between both countries. To exclude these would cripple parliamentary election observation and further increase parliamentary dependence on the information monopoly of international administrations and NGOs. Similar to the PACE rules, for the sake of diffusing any doubt, it seems reasonable to exclude observers who are members of a parliamentary friendship group with the country concerned from leadership positions.

One Bureau Member has proposed to include this point in the declaration that the member signs in order to achieve full transparency, without any further consequences. Also, transparency might be enhanced by making the affiliation of each observer public.

Draft Guidelines

I.

Decision to deploy an OSCE PA Election Observation Mission (EOM)

1. OSCE PA EOMs are an activity of the OSCE PA, one of the two OSCE institutions that are typically invited, – in line with OSCE commitments – by OSCE participating States that conduct elections (host country). The PA is composed of members from participating States whose credentials have been verified (Rule 3 No 5 RoP). The OSCE PA Rules of Procedure regarding the composition of the Assembly and the participation in PA events apply. In exceptional cases outlined in and under the conditions of Section III, non-PA parliamentarians may be seconded to OSCE PA EOMs.
2. The decision to deploy an EOM is taken by the OSCE PA President after communicating to the Bureau the intention to do so.
3. The decision is normally based on the results of an eventual OSCE ODIHR Needs Assessment Mission. In cases where the ODIHR has not been invited to observe – in violation of OSCE commitments – or does not observe because the country that has extended the invitation makes it impossible for the ODIHR to observe in line with its established methodology, the PA will refrain from sending an EOM.
4. In cases where the ODIHR cannot observe for other reasons and abstains from a needs assessment, the decision will be based on a needs assessment by the OSCE PA International Secretariat.
5. The President will also decide whether the EOM will be a fully-fledged one, a limited one, for instance composed of Bureau members only, or an expert mission with even more limited participation.
6. In cases when the OSCE PA observes an election alongside the ODIHR, both OSCE Institutions form a short term OSCE observer mission, as stipulated in the 1997 Cooperation Agreement, endorsed by OSCE MC Decision 19/06.
7. The OSCE institutions may be joined by other parliamentary observer missions, provided they apply the same standards. In such case, they will form an International Election Observation Mission (IEOM).

II.

Standards for OSCE PA observers

1. Observers must meet the highest standards of impartiality. Any potential conflict of interest which could raise doubts in the eyes of a reasonable and neutral person regarding an observer's ability to act in a fully impartial manner disqualifies a candidate from being an observer. Whether or not the candidate is believed to be subjectively impartial or is seen as impartial by his colleagues is irrelevant.

Potential conflicts of interests can arise from the following:

- Corruption
- Potential economic benefits for the observer or close family from the outcome of the elections
- Close family or personal or economic ties with electoral contestants or their campaign teams
- Previous participation in election observation in the country sponsored by the country's government, lobby groups working on behalf of the government, or any other electoral stakeholder
- Previous exclusion from the observation of elections in the host country based on a decision by the EOM leadership
- Being from a country that is directly or indirectly - for instance by giving military support to internal groups – engaged in an acute armed conflict or another bilateral dispute of similarly serious nature with the host country
- Litigation against electoral competitors
- Active substantial support to the campaigns of one or more of the stakeholders
- Active or paid participation in or providing support to political campaigns in the country

- Public political statements of the individual member within six months before election day, or after the day on which the election is officially announced, whichever is the later date, that would constitute a display of partisanship and be qualified as a breach of the Code of Conduct if made during the observation. This also includes statements of racist or nationalist nature and hate speech addressed to the country observed, its people or groups within the country. Participation in normal parliamentary business or in other official functions does not indicate a conflict of interest, even when it deals with the host country.
- Active and grave violations of national laws or against the sovereignty of the country observed
- Entry bans into the country for reasons unrelated to political or election observation activity in the host country
- Membership in groups that aim at overthrowing the government of the host country
- Support for groups that resort to violence in their attempts to overthrow the government or change the political system of the host country
- Additionally, for the leadership of EOMs:
 - being from a neighboring country.

Except if the above list contains an explicit reference to a group or a country, all conflicts of interest must lie in the person of the individual observer, not in the adherence to a nation or group.

2. Members that express interest in being nominated as observers have to sign the checklist attached and hand it in together with his/her application.
3. Being member of a parliamentary friendship group with the country observed or belonging to a national minority that is part of the governing majority in the country observed, while not necessarily indicating a real conflict of interest excluding the member from observing, should also be made transparent by adding it as an information to the checklist.
4. This checklist should indicate the party membership of the observer and his/her membership in a bi-national parliamentary friendship group with the host country and be made public upon request in order to increase confidence through enhanced transparency.

III.

Nomination of observers

1. National OSCE PA Delegations – formally through their leader, in practice through the Secretaries of Delegation – nominate interested PA members from their delegation as observers. The nomination must be made in the format of a list. In case not all observers nominated can be appointed, due to reasons listed in the following paragraphs, nominated members will be taken into account in the order they appear on the list.
2. Full PA members can be nominated. If a national delegation cannot provide as many observers as it has members, it can fill the remaining places in with alternate members.
3. The nominating delegation has to make sure that the nominees meet the requirements of section II.
4. Members can be accompanied by Secretaries of their national PA Delegations. These guidelines apply to them mutatis mutandis. However, limitations in numbers apply exclusively to members of parliaments.
5. In exceptional cases, when a mission does not receive enough nominations from among members, additional nominations can be made from among alternate members, based on a decision by the leadership of the OSCE PA EOM.
6. Other national MPs that are neither members nor alternate members of the OSCE PA can be seconded to the mission through a formal notification by the Head of Delegation if the following conditions are met:
 - Either the OSCE PA President has decided that because of conflicting PA events (like Annual Sessions or other statutory meetings) the OSCE PA might otherwise not be able to appoint a sufficient number of observers,

or

the Speaker of a national Parliament states in writing that this parliament's delegation cannot fill the places of observers it is entitled to nominate due to urgent parliamentary business of all its members and alternate members

and

- the delegations that nominate non-members have not yet nominated the number of observers they are entitled to,
 - the number of non-members in the OSCE PA delegation does not exceed 20 percent of the total members of the delegation, and
 - the non-members undergo a briefing on the election-related acquis of the OSCE, give their consent to all relevant OSCE PA documents and pledge to be present when the mission's report will be discussed in a PA meeting. In order to be prepared and to enhance the transparency of the process,, delegations that wish to nominate non-members are encouraged to establish a pool of interested national parliamentarians that fulfill these requirements.
7. The EOM should preserve a political and a geographical balance. Nominations can be considered only as long as an individual delegation would not exceed a reasonable share of the overall observers of the mission. The maximum number of observers from one delegation should normally not exceed 10 percent of the overall number of observers in the mission.
 8. The President of the OSCE PA can decide to invite a limited number of parliamentary observers from Partner Countries (two per country).
 9. In exceptional cases, when parliamentary observers (Rule 45 RoP) who usually join the IOEM as partners cannot send a full delegation due to organizational problems, the OSCE PA President may permit them to participate in the OSCE PA observation alongside the OSCE PA observers.

IV.

Appointment of observers

1. Once a nomination has been received by the responsible PA officials in charge of the mission, the checklist provided undergoes a plausibility check by the International Secretariat. The PA International Secretariat will not initiate a material investigation of possible or alleged conflicts of interest. If there is an established conflict with this Rules pertaining, in particular, to Section II of the present guidelines, the International Secretariat will consult with the national delegation.
2. Members are not participants in an observation mission until they are appointed by the President. Nominated observers are appointed by the OSCE PA President from the lists proposed by the national delegations in the order that they are enumerated based on the principles outlined above.
3. The International Secretariat sends the list of appointed observers to the delegations that have forwarded nominations before the expiry of the deadline set by the host country legislation for the registration of observers.
4. If substantiated doubts regarding the accuracy of the nominated observers' statement made by signing the checklist are raised by other PA members or an electoral stakeholder from the country to be observed, they should be addressed first by the leadership of the national PA delegation.
5. If the delegation maintains the nomination, the leader of the PA delegation in the EOM assesses the issue with the help of the Secretariat. If they conclude that the facts have been sufficiently corroborated, the nominee will not be considered eligible as an observer for this election.
6. In cases of violations of observer rules, observers can be excluded from the mission by decision of the Head of the PA Delegation to the short term OSCE observer mission after consultation with the Special Coordinator and the International Secretariat.

V.

EOM leadership

1. In line with the 1997 Cooperation Agreement the President nominates himself or any other Senior PA figure as Special Coordinator to lead the short term OSCE observer mission for appointment by the OSCE Chairperson-in-Office. In case the President is citizen of the country to be observed, he/she will delegate the right of nomination to the most senior PA Vice President.
2. One of the observers will be appointed by the OSCE PA President as Head of the PA Delegation to the short term OSCE observer mission/the International Election Observation Mission (IEOM). When the OSCE PA does not have any partner in the observation, this person serves as Head of the OSCE PA Mission.
3. The Special Coordinator and the Head of Delegation must be full OSCE PA members. Their mandate stays in place for all matters relating to these elections, at least until the report has been delivered to the bodies of the OSCE PA.
4. In accordance with the Cooperation Agreement, the Special Coordinator leads the short term OSCE observer mission. He/she works closely with the OSCE/ODIHR On-site Coordinator (“ODIHR Head of Mission”) and delivers the preliminary post-election statement in conjunction with other appropriate officials. The Special Coordinator is the principle representative of the short term OSCE observer mission to the authorities of the host country and accountable to the OSCE Chairperson-in-Office. The Special Coordinator coordinates the work of the International Election Observation Mission (IEOM). In the event that other international parliamentary bodies are strongly represented in the IEOM, he/she can share his/her responsibilities with the leaders of these bodies. The Special Coordinator also performs functions assigned by the present document.
5. The Head of the PA Delegation to the short term OSCE observer mission deals with the delegation’s internal business and presides over meetings of the delegation. During parliamentary briefings, he/she performs functions of a deputy to the Special Coordinator. In Coordination Meetings within the IEOM (section VIII), the Head of Delegation presents the OSCE PA position in support of the Special Coordinator. In addition, the Head of Delegation performs functions assigned by the present document.

VI.

Registration of observers

1. The International Secretariat hands the observer lists to the authorities of the host country for observer registration.
2. If the host country rejects an appointed observer, the Head of Delegation will decide whether this rejection was made on valid grounds. If this is not the case, the OSCE PA President will decide how to address this breach of OSCE commitments.

VII.

Deployment and Conduct

1. The International Secretariat will draft a deployment plan taking into consideration personal wishes by the observers, but also the requirements for a meaningful observation mission. The final decision on the deployment plan is taken by the Special Coordinator. Generally, deployment is done in pairs of two. The ODIHR does not consider questionnaires filled in by one-person observer teams. The format of the deployment should also take into consideration best practices of the ODIHR, best served by the formation of teams with heterogeneous backgrounds.
2. All observers must be present during the full time period of the observation and comply at all times with the rules outlined herein and sign and comply with the Code of Conduct. They also must attend all briefings organized by the OSCE PA and de-brief the EOM leadership after the end of election day. They must, in particular, refrain from making political statements during the observation in the country, and should not engage in political discussions with members of the polling station commissions or the drivers and interpreters. They should also refrain from bringing their own media team with them. They also must abide by the rules for observation and fill in the questionnaires in the proper way.

VIII.

Coordination Meetings within the IEOM

When preparing the preliminary statement that the OSCE Special Coordinator will make on behalf of the IOEM, findings and conclusions from the mission are discussed with the aim of arriving at a joint assessment of all delegations. Only the Special Coordinator and the Head of the PA Delegation to the short term OSCE observer mission as well as the necessary support staff from the OSCE PA International Secretariat are allowed to participate in these meetings on behalf of the OSCE PA. They can delegate their function to the Assistant Coordinator (an official from among OSCE PA staff appointed by the OSCE PA Secretary General) for a working level coordination.

IX.

Sanctions and Recourse

1. In severe cases like when a member is found to have submitted a statement on the checklist that is proven wrong, the OSCE PA President will exclude the member from any further observation mission.
2. If a national delegation persistently nominates observers despite obvious issues regarding their honesty when filling in the application or their conduct during past observations, the Bureau can exclude this delegation from OSCE PA election observation.
3. Both nominees and observers can appeal against their exclusion. The appeal of an observer against his/her exclusion from the mission is addressed to and decided by the President. Nominees that have not been appointed because of potential conflicts of interest can appeal to the Bureau.

X.

Reporting and Follow-Up

1. The Special Coordinator and/or the Head of Delegation will deliver a report to the next Standing Committee. The report shall also be discussed in one of the general committees.
2. All OSCE PA officials will make an effort to monitor – within their area of responsibility and the OSCE PA capacities – the way in which the host country addresses recommendations contained in the ODIHR's final report. The OSCE PA's General Committee on Democracy, Human Rights and Humanitarian Questions should consider further way of enhancing election observation follow-up.

XI.

Entry into force

These guidelines will enter into force the day following their final presentation in the Standing Committee of the OSCE PA during its 2019 Winter Meeting. They will be applied for the first time when the OSCE PA leadership invites delegations to observe an election. They will not apply to observer recruitment already which is already in progress.

Attachment

Possible statement of PA members who volunteer to observe an election

I have carefully read Chapter II of the guidelines (**Standards for OSCE PA observers**). In particular, I am aware that the credibility and positive impact of the work of an observation mission depends to a large extent on the perceived impartiality of the observers. Any potential conflict of interest that could reasonably be perceived or portrayed by electoral stakeholders and, in particular, by contestants in the election observed, must be avoided.

An important principle regarding potential conflicts of interest is that there does not need to be an actual misconduct. It is sufficient that credibly substantiated facts could - in the eyes of a reasonable stakeholder in the process assessed - appear to indicate a conflict of interest suited to potentially impacting on the impartiality of the person. This means:

- My subjective belief or of my political friends that he/she is able to observe in a non-partisan way is irrelevant.
- It does not matter whether my stance/conduct that might lead to the appearance of bias is ethically correct or widely accepted politically, as potential bias is not a matter of personal wrong-doing.
- And, finally, even facts that are brought forward by a stakeholder in the ill intention to discredit the process, they need to be assessed objectively if substantiated.

In light of this, I declare that

- I and my family have never received economic benefits from any of the contestants or their supporters
- I do not have close family ties to or am personally or economically dependent on electoral contestants or members of their support teams
- I have never participated in an election observation in the country sponsored by its government, lobby groups working on behalf of that government, or any other electoral stakeholder
- I have never been excluded from the observation of elections in the host country based on a decision by the EOM leadership
- I have never engaged in active or paid support to political campaigns in the country
- I have never actively lent any substantial material support to the campaigns of one or more of the contestants
- I am not a member of or have publicly stated support for any group that aims at overthrowing the government changing the political system of the host country with other than purely peaceful and legal means
- I am not under an entry ban into the country for reasons which are unrelated to election observation activity in the host country or my capacity as member of my country's parliament
- I have not committed active and grave breaches of national laws or violated the sovereignty of the country observed
- I am not engaged in litigation against electoral contestants or members of their campaign teams,
- I have not made public statements or engaged in activities within six months before election day, or after the day on which the election is officially announced, whichever is the later date, that would constitute a display of partisanship regarding electoral competitors and be qualified as a breach of the Code of Conduct if made during the observation. This also includes statements of racist or nationalist nature and hate speech addressed to the country observed, its people or groups within the country. I have not assessed in advance the expected conduct of electoral stakeholders during the election that is to be observed. Participation in normal parliamentary business or in other official functions of my parliament are exempt from this, even when they deal with the host country.

For transparency reasons I state that I am/I am not a member of a bi-national friendship group of my parliament with the parliament of the host country. I am aware that wrong assertions in this declaration might lead to my exclusion from the mission and could entail further sanction.