

Council Decision 9262/98 – PESC 157 – COHOM 6
GUIDELINES - EU POLICY ON ELECTORAL OBSERVATION

PRECONDITIONS FOR OBSERVATION

Minimum Standards

1. The observation of elections is an important component of the EU's policy in promoting human rights and democratisation throughout the world. The EU undertakes such activities on the basis of partnership and with the objective of developing national capacity.
2. A number of legal and political factors must be taken into account in reaching a decision whether to send observers to a particular electoral process. The EU will wish to ascertain that its involvement in monitoring is likely to promote further democratisation in the country concerned. Such judgement may prove difficult but can be assisted *inter alia* by seeking legal and political assessments by EU HOMs.
3. The general standards for minimum conditions will include the following factors:
 - franchise is genuinely universal;
 - political parties and individual candidates are able to enjoy their legitimate right to take part in the election;
 - there is freedom of expression allowing possible criticism of the incumbent government and the right to free movement and assembly;
 - all contesting parties and candidates have reasonable access to the media.
4. If the EU judges there to be no possibility of elections being held under such minimum conditions a decision may be taken that no electoral observers should be sent, in order to avoid giving credibility to flawed electoral processes. However, the EU's judgement will also include factors such as whether this is the first election following a period of conflict or oppression and whether the elections accompany a peace process and possibly return of refugees.

Preparation for Mission

5. After a decision in principle has been made to offer to observe, and an invitation has been received, the concrete needs, scope and degree of involvement of the EU's observation shall be assessed if necessary by sending a needs assessment mission. This must be accompanied by an early dialogue with the national authorities. Specific terms of reference for the observation mission will then be drawn up by the EU and agreed with the country concerned.

Preconditions for the Work of Observers

6. Even when it is possible that free and fair elections may take place, the EU will only send election observers to a country when:
 - it has been formally requested to monitor the election by the recognised government of the host country;
 - the involvement of EU observers is supported by all the main contesting political parties or candidates;
 - the EU has previously been monitoring political developments in the host country for a period of time and has the political capacity to assess developments through EU HOMs;
 - there is enough lead time for the leaders of any EU monitoring team to be in place sufficiently in advance, in order to monitor the political and judicial environment and take part as appropriate in preparatory work ahead of the election campaign itself.

7. Before observers can be sent the EU must be satisfied that they will have:
 - clearly stated objectives, written and agreed with the host country well in advance;
 - freedom of access to all political parties, candidates and election officials;
 - freedom of access to all polls and counting centres at all times;
 - freedom of movement throughout the country, without prior permission or notification, except where genuine security concerns prohibit this;
 - all necessary information about the electoral process;
 - no doubts as to their own safety.

Code Of Conduct

The following guidelines will apply to nationals of any country participating in EU observation missions decided by the EU unless specifically agreed otherwise. The guidelines will not apply to EU nationals participating in e.g. OSCE or UN missions, in which case those organisation's own codes will apply.

All official EU observers should adhere to the following guidelines:

- Respect the laws of the land. Observers enjoy no special immunities as an international observer, unless the host country so provides;
- Observers will participate in all pre-election briefings with their supervising officers;
- Observers will be subject to the direction and management of the observer team leadership, carrying out their written terms of reference and covering the geographical schedules specified by team leaders;

- Observers should be aware of the presence of other electoral monitoring teams, and liaise with them under the direction of the leader of the EU observer team;
- Observers will carry prescribed identification issued by the host government or election commission, and will identify themselves to any interested authority upon request;
- Observers shall maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties, candidates, or with reference to any issues in contention in the election process;
- Observers will not display or wear any partisan symbols, colours or banners;
- Observers will undertake their duties in an unobtrusive manner, and will not disrupt or interfere with the election process, polling day procedures, or the vote count,
- Observers may bring irregularities to the attention of the election officials, but will not give instructions or countermand decisions of the election officials;
- Observers will base all conclusions on well documented, factual, and verifiable evidence, and will keep a record of the polling stations and other relevant places that they visit;
- Observers will refrain from making any personal or premature comments about their observations to the media or any other interested persons, but should provide, through a designated liaison officer or spokesperson, general information about the nature of their activities as observers;
- Observers will participate in post election debriefings with their supervising officers and will contribute fully towards appropriate EU reports on the elections monitored;
- Observers must comply with all national laws and regulations. Where these limit freedom of assembly or movement about the country, they must note where such rules prevent them from carrying out their duties;
- At all times during the mission, including during private time away from work, each election observer should behave blamelessly, exercise sound judgement, and observe the highest level of personal discretion.

General Guidelines for Observers when visiting Polling Stations

The following general guidelines should also be noted by EU election observers for their conduct on polling days:

- Introduce yourself to the Chairperson of the polling station when you arrive. Establishing a working relationship with the electoral commission will assist your observation, and is particularly important for the count;
- Comply with the instructions of officials at the polling stations. If you are dissatisfied with the official instruction record the circumstances on the appropriate observation report;

- If an official prevents you from doing something which you believe you are entitled to do, point this out. Refer if possible to the relevant provisions of the law;
- Avoid confrontation with security personnel;
- Be prepared to present your passport and accreditation to any officials who request them. Keep these documents with you at all times;
- Maintain complete impartiality at all times;
- Treat all information received in confidence;
- Avoid disrupting the voting and counting process;
- Under no circumstances should you handle official election documents in the polling station or physically assist the voting or counting process;
- Do not use or carry photography, video or recording equipment when undertaking your duties as an observer;
- Be prepared to note your conversations and comments made to you. Ask questions and in particular ask for concrete examples when general statements are made;
- Do not attempt to take an active role in resolving any disputes or complaints, even if asked to. Your role is to observe and record events at the polling stations;
- Record any complaints made to you on the appropriate observation form, including details of the complainant: name, organisations (where relevant), and address;
- Exercise restraint if offered food and drink at polling stations;
- Be conscious that your conduct is likely to be closely observed. Try not to be enthusiastic or overtly friendly if you meet a candidate's proxy or representative whom you already know,
- Try not to give the impression of rushing from one polling station to another.

Entitlements of Election Observation

As an accredited EU election observer you are entitled to:

- Visit any polling station under the direction of the supervising officers of the mission to observe voting and counting;
- Meet with members of election commissions, MPs, candidates or their proxies, voters and representatives of civil society in order to gather information;
- Ask questions about the voting and counting process to members of electoral commissions and to superior electoral commissions, but you do not have the right to countermand the decisions of elections officials.

Elements to be assessed by the Observer Mission

When assessing the validity of an election the EU observer must consider all the relevant factors that affect the electoral process. The following factors should be considered:

- The degree of impartiality shown by the election management body;
- The degree of freedom of political parties, alliances and candidates to organise, move, assemble and express their views publicly;
- The fairness of access to state resources made available for the election,
- The fairness of access for political parties, alliances and candidates to the media, in particular the state media;
- The registration of voters without discrimination on the basis of gender, racial or ethnic origin,
- Any other issue that concerns the essential freedom and fairness of the election;
- The conduct of polling and counting of votes as described in the electoral law.

Media Statements and Election Observers

- Make no comment whatsoever about the electoral process and do not be drawn into general contact with members of the media. In all cases journalists who seek comment on the electoral process should be referred to the authorised spokesperson of the mission;
- Do not make general statements about the conduct of the election as you may prejudice any final statement made on behalf of all EU observers;
- The EU observers mission will make a statement to the media on behalf of the EU observers after everyone has had a chance to report their observations.