

EUROPEAN EXTERNAL ACTION SERVICE



EUROPEAN EXTERNAL ACTION SERVICE

DIRECTORATE Human Rights and Democracy

Guidelines on the role of EU Delegations in EU Election Observation Missions¹

The European Commission Communication on EU Election Assistance and Observation (COM/2000/191) established in 2000 a standard and consistent methodology that is based on an impartial, independent and long-term assessment of an electoral process, in accordance with international standards for democratic elections.²

EU Election Observation Missions (EU EOMs) are implemented in accordance with the Commission Communication and are funded by the European Instrument for Democracy and Human Rights (EIDHR).

The High Representative/Vice-President (HR/VP), assisted by the European External Action Service (EEAS), establishes annual priorities for possible EU EOMs in consultation with the Council and European Parliament (EP). If an election has been prioritised, the overall process of programming EU EOMs includes:

1. An Exploratory Mission (ExM) from Brussels to the country where the EU has been invited to observe elections;
2. The deployment of an EU EOM, upon a positive decision by the HR/VP, implemented by the EEAS for political and electoral aspects, and by European Commission Foreign Policy Instruments (FPI) for logistics and security;
3. A return visit to the country, within two months after the elections, to present the mission's findings and recommendations.

Close cooperation between the EEAS Democracy Support and Election Observation Division (hereinafter, EEAS Election Division), the EEAS geographical division, European Commission services, the Member States, the EP Delegation (when deployed), and EU Delegations at all steps of this process is necessary to the success of an electoral observation mission.

This note aims to clarify the implications brought by the deployment of a credible EU EOM for EU Delegations. EU Delegations play an important role at all stages of the election observation process in assisting EU EOMs. Furthermore, the role of the EU Delegations become crucial after EU EOMs leave the country, as they will be leading the follow-up to the recommendations included in EU EOM Final Reports.

¹ To facilitate the use of these guidelines, all parts concerning the involvement or special attention of EU Delegations are in *italics*.

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000DC0191:EN:NOT>

I. INDEPENDENCE OF THE EU EOM

EU's credibility in election observation relies on EU EOMs' independent and technical assessment of electoral processes. EU EOMs regularly consult EU institutions, including the EU Delegation, but the ultimate responsibility of the final assessment of the election process lies with the EU EOM Chief Observer (CO), on the basis of an established methodology. The EU EOM assessment is grounded on observers' findings on the ground, international obligations and standards, and domestic legislation.

All the activities and outputs of EU EOMs including press releases, preliminary statement and final report, are the result of their independent assessment of the election processes. Ultimately, independent election observation enhances the credibility of the EU and its democratisation agenda.

The Delegation should liaise with the EU EOM and provide all the relevant support and advice, while respecting EU EOM independence from all EU institutions.

The assessment of the process by the EU EOM might not correspond to the views of some political stakeholders; nevertheless, if the EU EOM remains independent and is perceived as such, the European Union will be able to maintain a wider room of manoeuvre for its political link with all actors.

II. THE ROLE OF THE EEAS DEMOCRACY SUPPORT AND ELECTION OBSERVATION DIVISION

The EEAS Election Division acts as the focal point for political and electoral issues related to EU EOMs, facilitates contacts among EU actors and with external stakeholders. It shares all relevant information with the FPI Election Observation unit, which is responsible for the implementation of EU EOMs logistic and security dimension. The EEAS Election desk is the key contact person for the EU EOMs, the relevant EEAS geographical division, the Member States, the EP Secretariat, the EP Delegation (if deployed), and the EU Delegation.

The EEAS Election desk coordinates comments by all these actors on draft reports and press releases produced by the EU EOMs, in order to guarantee that professional standards are maintained by the mission. While respecting EU EOMs' independence, this ensures that a credible observation is undertaken in line with EU methodology and international principles on election observation.³

The EU Delegation must consult the EEAS Election desk on all issues related to the EOM, in particular regarding contacts with the authority and the media.

The EU EOM is responsible to assess and make public comments on the electoral process. The EU Delegation should not comment on the electoral process to the media to avoid inconsistent messages.

³ The EU is signatory of the Declaration of Principles for International Election Observation, commemorated at the United Nations in New York in October 2005 by the main international election observation organisations.

III. PROGRAMMING AND INVITATION FROM THE AUTHORITIES IN THE COUNTRY

The EEAS consults EEAS geographical directorates before submitting a list of proposed priorities to the HR/VP. After consulting the Political and Security Committee (PSC) and the European Parliament, the HR/VP decides a list of priority countries. Several criteria are taken into account, including the coherence of election observation with overall EU policy in the country, the presence of sufficient conditions for the holding of democratic elections, the potential political impact of a negative assessment, and, where applicable, effective follow-up to the recommendations made by past EU EOMs.

Once the list of priority countries for election observation is defined, the concerned EU Delegations are informed and will add EEAS Election desk to the distribution list of Delegation's political reports and relevant documents.

A formal invitation from the host government to the EU is a pre-condition for the EU to deploy an EU EOM. The invitation may be issued by the government and/or the electoral authorities. The invitation should be issued before the deployment of the Exploratory Mission (ExM).

When the inclusion of the country in the annual priority list is confirmed, the Delegation should – well in advance of the likely date of an ExM – establish contacts with the national authorities to assess/confirm their interest in an EU EOM and get a written invitation. The invitation should be sent as soon as possible to the EEAS Election and geographical divisions. The EEAS Election Division will draft a response.

IV. THE EXPLORATORY MISSION (EXM)

The ExM is always undertaken prior to any final decision by the HR/VP to observe an election process, and should be deployed at least four months before Election Day.

ExM mandate

The ExM is a fact-finding mission designed to enable the EEAS to make a recommendation to the HR/VP as to the advisability, usefulness and feasibility of deploying an EU EOM (see Commission Communication COM/2000/191). The FPI Electoral Observation unit also plays a crucial role in assessing logistic and security arrangements, which would render an EOM feasible. EEAS and FPI advance proposals on the EU EOM size, composition, timeline and draft deployment plan.

The ExM explains the methodology of EU EOMs and clarifies to interlocutors in the country that, should the HR/VP decide to deploy an EU EOM, it will operate under a separate and distinct mandate from the one of EU Delegation and institutions. These core elements will be reflected in all ExM communication.

The ExM also stresses with national authorities mutual obligations, independence and impartiality of EU EOM, as well as the need to grant the observers free access to all relevant information and stakeholders and free movement throughout the country. The ExM will also clarify that, in conformity with agreed international principles, EU EOMs do not interfere

with the political and electoral processes and respects national laws and rules. All these elements are to be included in the Memoranda of Understanding that need to be signed with the EU before the deployment of the EU EOM by the government and the electoral authority.

ExM composition

The mission is led by the EEAS Election Division and consists of EEAS and FPI officials, and external experts (election, logistics and security) recruited through a Framework contract by FPI. The EEAS is primarily responsible for political and electoral issues, while FPI is primarily responsible for logistics and security. The EEAS Electoral Desk heads the ExM.

ExM preparation and deployment

The Delegation will inform the Ministry of Foreign Affairs of the arrival of the ExM's members by Note Verbale.

The assistance of the Delegation will be requested, in advance of the ExM, to support the EEAS Election Division in the preparation of a briefing pack. This will be done with full cooperation from the EEAS geographical desk and FPI Election Observation unit.

The briefing pack includes in particular:

- i. Political background and most recent developments, including information on the main parties and/or candidates;
- ii. Constitutional and electoral legal framework and other relevant pieces of legislation and regulation;
- iii. Human rights background;
- iv. Security briefings;
- v. Background information on living conditions (e.g., travel, telephone communication, cost of living, country maps, etc).

Support with the practical arrangements for the ExM (office space, vehicle, advice on accommodation, etc.) will be also needed. Contracted experts are responsible for their own accommodation, local transport and other logistical arrangements. However, the delegation may be asked to provide advice.

The Delegation will prepare, in consultation and coordination with the EEAS Election Division and FPI, the agenda of the ExM, scheduling meetings with the key political stakeholders and those directly involved in all aspects of the electoral process, including logistics and security (see Annexes).

These meetings include: EU Heads of Mission (HoMs), at the beginning and end of the ExM, national authorities (MFA, Ministry of Justice, Ministry of Communication, Ministry of Finance, relevant judicial authorities, etc.), the election management body, main political parties and/or candidates, civil society organizations (including domestic observers), media, active donors and international organizations, useful national and international contacts for security issues and any other suggested interlocutors. Except for all the key meetings with national or international authorities (Ministries, Election Commission, HoMs, etc.), the

logistics and security Experts together with the FPI official may follow a specific programme to meet interlocutors relevant to their duties. At least one hour per day should be allocated to internal ExM coordination and unforeseen meetings.

Although the Head of Delegation (HoD) may wish to join only meetings with key political interlocutors (e.g. ministers, other ambassadors) or those of a protocol nature (MFA) as well as to chair the EU Heads of Mission meetings, the participation of the Delegation at the appropriate level in all meetings is welcomed and highly desirable.

The ExM will also normally undertake at least one field trip within the country to meet local or regional representatives of state institutions, as well as candidates and civil society, in order to assess the situation outside the capital. *The advice of the Delegation will be sought on the most appropriate destinations.*

ExM visibility

The ExM should be seen as a tool for decision-making of the HR/VP. Publicity should be avoided, even though this is frequently not entirely possible. Sensitive issues will be discussed during the ExM and visibility should be handled with care. The assistance of the press officer of the Delegation may be required if any public information on the role of the ExM has to be communicated.

ExM report

The exploratory mission produces an internal report containing its recommendation as to whether the deployment of an EU EOM is useful, feasible and advisable. The report provides an assessment of the election framework and environment and focuses on the preparations undertaken to date. It also outlines the scope and size of a potential EU EOM, provides an initial security risk assessment, and proposes security measures. The EEAS Election desk always sends for comments the ExM Report to the EEAS geographical desk and Delegation. HR/VP, on the basis of the report and its recommendations, decides whether an EU EOM should be deployed. *The EEAS shares the report's executive summary with the PSC and the Parliament, while the EU Delegation circulates it among HoMs.*

V. NEGOTIATION OF THE MEMORANDA OF UNDERSTANDING (MoUs) WITH THE GOVERNMENT AND ELECTORAL AUTHORITIES

Following HR/VP decision to deploy an EU EOM, two MoUs must be established for EU EOMs: one between the EU and the government (MFA, Prime Minister) and the other with the electoral authority.

MoUs are an essential element for the deployment of an EU EOM. Standard draft MoUs are provided to the Delegation by the EEAS Election Division.

The Delegation will be asked to notify the authorities and negotiate these texts. MoUs are preferably established by signature of the HoD.

In order to ensure consistency across countries, the EEAS Election Division and FPI will be involved in the negotiations and systematically consulted by the Delegation regarding any change in the standard text suggested by national authorities.

Each MoU defines the rights and obligations of the observers. It must include a minimum set of conditions for effective election observation: issuance to the observers of visas by the government and accreditations by the electoral authority; free access to all levels of election administration, relevant public authorities, political forces, civil society representatives, media; unimpeded access to all necessary information and to all stages of the electoral process, including voting, counting, tabulation, and any special voting procedures.

The MoU with the government encompasses practical arrangements such as tax exemption on EU EOM's material, access to communication services. It could include, when appropriate, specific provisions on support and assistance by national authorities to ensure the security of the observers.

VI. THE EU ELECTION OBSERVATION MISSION (EU EOM)

Regular contacts between the EU Delegation and the EU EOM core team are foreseen throughout the mission. The Chief Observer and/or his/her Deputy will regularly meet the EU Delegation as well as the HoMs to exchange information on the election situation (weekly meetings are recommended).

The EU EOM will have its own office and ensure its own logistic arrangements independently from the Delegation.

EU EOM composition

EU EOMs consist of:

- A **Chief Observer (CO)**, Member of the European Parliament appointed by the HR/VP, who will be present in the country at all key moments of the mission. The Chief Observer is the only spokesperson of the mission, over which he/she has the overall responsibility, including on Final Report.
- A **Core Team of experts (CT)**, including a **Deputy Chief Observer (DCO)**. The Core Team sets the analytical framework for the mission, carries out specific tasks such as media monitoring, and manages the work of the observers. The DCO supports the Chief Observer and manages the Core Team. In the absence of the Chief Observer, the DCO represents him/.
- **Long Term Observers (LTOs)** are deployed throughout the country ideally five to six weeks before the elections, and remain in the country some days after election day. They observe a broad range of electoral issues in their area of responsibility, including the unfolding of the electoral campaign.
- **Short Term Observers (STOs)** are deployed shortly before election day to observe voting, counting of ballots and the start of the tabulation process.
- Prior to the arrival of the Core Team and observers, a team from the **EU EOM implementing partner/Service Provider (SP)**, contracted by the FPI Election Observation unit, will arrive to establish the EU EOM's headquarters, import equipment, recruit local support staff and make all necessary preparations for the arrival of the EU EOM.

Furthermore, the EU EOM may be joined for election day observation by:

- An official **European Parliament Election Observation Delegation**, fully embedded in the EU EOM. A reference to the presence of such Delegation is made in the preliminary statement as well as in the other EU EOM's reports. Head of EP Delegation will also make a separate speech at the press conference, where the Chief Observer delivers the EU EOM preliminary statement. EU EOM's statements are in principle endorsed by EP Delegation (no separate EP statement is published). If an EP Delegation joins the EOM, the EU Delegation will cooperate with the EU EOM and the EP to facilitate its arrival.
- **Locally Recruited Short Term Observers (LSTOs)**. A limited number of EU Member State diplomats accredited to the country (up to two per Member State), as well as EU Delegation staff who are EU nationals, can join the EU EOM as LSTOs. Participation of EU Delegation staff is subject to the approval of the EEAS Director for Human Rights and Democracy.⁴ Member State missions will take care of logistics and security related with the deployment of their LSTOs.

EU EOM deployment

Prior to the deployment of the EU EOM, the EU Delegation will liaise with national authorities to organise courtesy meetings for the Core Team.

Upon its arrival, the Core Team will be briefed by the EU Delegation and EU HoMs. The EU Delegation will liaise with the Core Team to coordinate similar briefings with the Chief Observer when he/she arrives to officially launch the mission. The EU Delegation will also support the Core Team in the organisation of courtesy visits for the Chief Observer.

The Core Team will organize the Chief Observer's programme. Upon his/her arrival, the Chief Observer will held a press conference to launch the mission, and a press release will be published by the EOM.

EU EOM Interim Reports

In addition to the publicly available documents (see below), the EU EOM will issue regular interim reports prior to Election Day. These are internal EU documents and will be distributed by the EEAS Election Division only to the PSC and the European Parliament.

As for the other reports, the EEAS Election Division will coordinate comments on the draft report from the EEAS and EU Delegation. Comments should not aim at editing the text but rather request further clarifications or details when required, as well as indicate issues that may need to be taken into consideration.

EU EOM public documents: Preliminary Statement and Final Report

The EU EOM Chief Observer, presents the mission public Preliminary Statement in a press conference, usually 48 hours after the close of the polls. He/she is accompanied by the DCO, the Press officer and the Head of the EP Delegation (if any).

⁴ Ref. Ares(2011)974612 - 14/09/2011, Note from EEAS Executive Secretary General to Heads of EU Delegations on 'Election Observation - Role of Delegation staff post-Lisbon'.

The EEAS Election division receives the draft Preliminary Statement, share it and consolidate comments from EEAS geographical division and EU Delegation.

The final draft of the Preliminary Statement will be shared and discussed by the Chief Observer with EP Delegation's members for their endorsement and the very final version will be presented to EU HoMs just before the document is officially released.

After the Preliminary Statement has been presented, the HR/VP usually issues a statement on behalf of the European Union largely based upon EU EOM's conclusions. *The EEAS geographical division and the EU Delegation contribute to the drafting of this statement.*

Prior to departure, the EU EOM usually hosts a meeting with EU Delegations and Member States in order to discuss EU EOM's recommendations to be included in the **Final Report**.

The mechanisms of consultation and consolidation of comments from *EEAS geographical division and EU Delegation* through the *EEAS election division* remain the same for the Final Report and recommendations.

The Final Report including a set of concrete recommendations is delivered to national authorities within two months after Election Day.

The EU EOM Preliminary Statement and Final Report are both public documents.

VII. RETURN VISIT AND PRESENTATION OF THE FINAL REPORT IN THE COUNTRY

The Final Report should be publicly presented in the host country within two months after the elections, via a short Return Visit. The Return Visit is led by the EU EOM Chief Observer and is also joined by the DCO and other Core Team experts such the press officer and the election or legal experts, as appropriate. The purpose of the presentation of the final report is to encourage the government, the electoral management body, political parties and civil society to address EU EOM's findings and recommendations in a constructive way. This exercise allows the EU to publicly highlight issues deemed important for the improvement of future election processes and initiate a debate with authorities on those improvements. This can include the identification and agreement by authorities of some priority or consensual areas, as starting point.

A roundtable should be organized during the return visit, unless it is considered inadequate in the specific context political and post-electoral context, in order to discuss with national and international stakeholders the way forward on the EU EOM recommendations.

EU Delegations are fully involved in the deployment of the Return Visit, which represents the official handover on election-related issues from the EU EOM to the EU Delegation. In fact, the main goal of the visit is to transfer the responsibility for follow-up to national authorities, civil society, EU Delegation and EU Member States missions in the country. Moreover, the visit should convey a sense of partnership between EU Delegation and local stakeholders.

The EU Head of Delegation accompanies the Chief Observer to meetings and roundtables to present the Final Report. They convey to local and international stakeholders the message that the EU Delegation will be the focal point for following upon EU EOM's recommendations.

EU Delegation will prepare in advance the agenda of the meetings with the main electoral stakeholders, other international and domestic observer groups as well as the EU Heads of Mission.

Furthermore, EU Delegation will assist EU EOM's Press Officers in organizing a press conference and, where possible, a round table.

The Deputy Chief Observer provides a report on the findings of the Return Visit.

VIII. FOLLOW-UP TO THE EU EOM RECOMMENDATIONS

The role of the EU Delegation is essential in the political follow-up to EU EOM recommendations. After the closing of the EU EOM, the lead in following up to recommendations primarily rests with the EU Delegation and Member States, which can also benefit from the increased visibility brought by the EU EOM on the role of the EU in electoral issues. The EP has also a clear interest in strengthening follow-up to EU EOM recommendations.

The June 2012 EU Action Plan on Democracy and Human Rights requires, inter alia, EU Member States to report on follow-up to EU EOM recommendations and ensure their effective implementation⁵: "In practice, a mechanism of joint reporting of EU HoMs was initiated in 2012, based on a decision to report on all EU EOMs since 2009".

The EU Delegation, in co-operation with EEAS geographical services and DEVCO will follow up to EU EOM recommendations through political dialogue, technical electoral assistance, and any other appropriate instrument. This does not prevent the European Union from adapting its approach if recommendations become outdated or less relevant because of important political and/or legal changes in the country.

Effective follow-up to the recommendations made by past EU EOMs is one of the criteria taken into account to identify priority countries for EU EOMs. In principle, EU EOMs should not be deployed in countries where previous recommendations have been ignored.

REFERENCE DOCUMENTS:

- Handbook for European Union Election Observation:
http://www.eueom.eu/files/dmfile/handbook-eueom-en-2nd-edition_en.pdf
- Compendium of International Standards for Elections:
http://www.eueom.eu/files/dmfile/compendium-of-int-standards-for-elections_en.pdf

⁵ June 2012 EU Strategic Framework and Action Plan on Human Rights and Democracy.

Annex 1: Standard Programme for Exploratory Mission:

We suggest the following meetings based on other ExM programmes, which are open to any suggestions.

- Detailed briefing by the Delegation on the political situation and an update of electoral preparations.
- Meeting with Member States: explain mandate of the ExM and gather their views on the political situation, election preparations and associated issues (particular areas of concern, attitude of authorities etc....);
- Ministry of Foreign Affairs: explain ExM mandate, understand their position on possible EOM, discuss need to sign MoU if EU EOM is deployed;

Of relevance to the Electoral Expert

- Election Commission: explain mission purpose, explain role of EOM if deployed. These meetings usually take place at two levels: a high level meeting to discuss terms and conditions for observation etc., and a lower level technical meeting during which the electoral expert can map out with the Commission representatives the structure and functioning of the Electoral Commission throughout the process.
- The candidates/political parties: Open to the suggestions of the Delegation. Purpose: explain ExM mandate, gather their opinion on the desirability of an EU EOM;
- Civil society in Democratisation and Human Rights field: Purpose: explore possible domestic observation and overall democratic situation on the ground, religious organisations, women's organisations to assess likely participation of women, any significant ethnic or minority groups which may be excluded during the process;
- Political commentators. If you know any particularly good political commentators/country experts, it would be good to have a meeting with them at some point during the mission;
- Other international and/or regional organisations - working on election or governance issues more broadly;
- Media: (television, radio, newspapers): assess media situation, framework for campaign coverage, etc

Of relevance to the Security and Logistics Experts

- National Police and Ministry of Defense: Discuss security arrangements for election; protection of observers; security in general.
- Meetings with Security officers/Defense and Security Attachés from EU Del (Regional Security Officer), from MS, from US embassy, and international organisations security staff;

- Meetings on operational aspects can be held in parallel to some of the political meetings: MS cooperation agencies; key travel agencies and companies for office space and accommodation, transportation, telecommunications etc.
- Representatives of international humanitarian organisations/UN agencies (operations and security departments) – UNDSS
- Meeting with Focal Point for the security of foreigners (Focal Point of Government, representatives of Ministry of Interiors, etc.)
- ICRC and ECHO
- Defense attaches and representatives of the armed forces
- Other representatives from security sector (private companies, foreign embassies, etc.)

In addition, it is normal practice to organise a field visit to a representative region of the country. The object of regional visits is to gain insight into the level of election preparedness as well as the logistical and security conditions outside the capital. The logistics and security experts could make a more complete visit in the country after the conclusion of the first part of the ExM.

We would request the Delegation to identify a contact person in the Delegation during the whole duration of the ExM.

At the end of the mission we would want to meet the Heads of Mission again to share findings, which we would discuss with the Delegation beforehand.

Within 15 days after the return of the ExM, the Commission services will submit recommendations to the HR/VP who will decide on the deployment of an EU EOM.