



ACTIVE CITIZENS FOR A VIBRANT DEMOCRACY

The Role and Regulation
of Citizen Election
Observation in the EU

Active Citizens for a Vibrant Democracy: the Role of Citizen Election Observation in the EU

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FOREWORD

In the OSCE Copenhagen Document, signed in 1990, and through other international obligations and commitments in the field of democratic elections, OSCE participating States in Eastern and Western Europe committed to enable and enhance citizen non-partisan election observation.

While after the dissolution of the Soviet Union, non-governmental organizations emerged in Eastern Europe with the capacity, structures, and methodologies for comprehensive monitoring of electoral processes, similar organizations did not develop in Western Europe. In most EU Member States, the role of citizen election observation has been carried out by organizations monitoring separate aspects of political life, various research institutes analyzing, for example, trends in party and candidate support or conducting exit polls. The media also played an important role in following and reporting on election campaigns and voting processes. There was widespread belief that the integrity of electoral processes is guaranteed through strong electoral and state institutions operating in an environment characterized by accountability and universal respect for democratic principles.

Such a belief has stood and continues to stand in challenge to the recommendations that the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) electoral missions constantly address to EU states. In total, since 2000, more than 90 such recommendations have been formulated, directly related to defining and guaranteeing the rights of citizen election observers. Our analysis shows that no more than seven EU states have fulfilled all the recommendations directed to them. Only ten states amended their legislation and provided for access to the proceedings of electoral bodies.

EPDE's analysis also indicates that only nine EU states have introduced the status of a citizen election observer into their legal systems. Similarly, only eight EU states have introduced accreditation for citizen observers. Meanwhile, such a status can ensure access to electoral commissions and is an opportunity for states to clearly define the rights of observers and the reasonable limits of their mandate. Accreditation distinguishes the role of the observer vis-a-vis other participants in the electoral process, especially voters, party observers, and members of election commissions. Even more striking, only 15 EU states have laws guaranteeing their citizens the right to observe both voting and

counting procedures. In some of these states this right is afforded to every citizen without explicitly mentioning election observers.

An analysis of the status and conditions for citizen election observation in countries of the European Union's eastern neighborhood, published by EPDE in 2019, highlighted legislative and practical deficits as well as differences in the states' attitudes toward citizen observers.¹ The obstruction or even prevention of the activities of observer organizations in Russia, Belarus, and Azerbaijan contrasts with approaches in countries such as Ukraine and Moldova, which have achieved EU candidate status and are reforming their electoral systems, guaranteeing broad rights for citizen election observation.

In this context, the EU and its Member States should reflect on the recommendations consistently offered by the OSCE/ODIHR, and aimed at strengthening and protecting the active role of civil society in electoral processes, including in particular the role of non-partisan citizen election observers. Recognizing this role, providing legal status, and defining the rights and obligations of citizen observers should become the standard rather than the exception. The importance of this postulate is especially evident in the face of enormous challenges posed by the digitization of electoral processes, disinformation and attempts to discredit monitoring institutions, growing political polarization, and the malign influence of non-democratic forces.

To effectively address these challenges, EU states should perceive civil society organizations that monitor elections as important partners through which it is possible not only to independently evaluate electoral processes, but which can also act as an early warning mechanism and substantially support electoral reforms in a rapidly changing political reality. The EU institutions, in turn, should provide such organizations with long-term and consistent methodological and financial support, which will enhance their own credibility as a global promoter of democratic values.

1 [Legal Framework for Citizen Election Observation in the EU-Eastern Partnership and Russian Federation](#), EPDE, October 2019.

EXECUTIVE SUMMARY

The right to non-partisan citizen election observation is enshrined in binding international obligations, declarative commitments, and best practices for democratic elections. As signatories to the 1990 OSCE Copenhagen Document and other relevant international documents and best practices in the field of democratic elections, EU Member States are committed to enabling and promoting non-partisan citizen election observation.

However, this study shows that only 15 (or slightly more than half) of the EU states have provisions that allow citizens to observe the procedures on election day, either by introducing the term “observers” and specifying their rights and obligations, or by more general provisions that allow all citizens to be present during voting and counting. In some states, the situation is unclear, and there is no conclusive information on the practice.

Only nine states have introduced citizen election observer status in their legal systems. This status makes it possible to clearly define the rights of citizen election observers and to impose reasonable restrictions on their activities. This status may also be important in the context of long-term observation of aspects of the electoral cycle other than voting and counting. In some legal contexts it might be necessary, for example, to observe the verification of support signatures for potential candidates or the resolution of complaints.

As a rule, most of the states that legislated for citizen observers also introduced procedures for their accreditation. This means that a total of only eight EU Member States provide for accreditation for citizen observers.

Since 2000, OSCE/ODIHR election missions have formulated over 90 recommendations to current EU states that relate directly to citizen election observation. Two-thirds of these recommendations are general in nature and concern the need to provide access to all aspects of an electoral process. Others relate to specific aspects or procedures. Only ten EU states have implemented the general recommendations, while no more than seven have implemented all of the OSCE/ODIHR recommendations.

The report argues that there is a need to implement the OSCE/ODIHR recommendations in all Member States to guarantee the rights of citizen election observers. It also stresses the need for EU institutions to provide sufficient

and sustainable financial support to establish and maintain citizen election observation in the EU countries. Strong civil society organizations monitoring elections will contribute to the integrity of democratic systems, but will also have an impact on the engagement of citizens in electoral and political processes.

This study is part of the multi-country project “European voters – together for electoral integrity,” which aims to empower European citizens to improve democratic electoral processes on a local, national, and European level, and to protect the integrity of elections in Europe as a fundamental human right of European citizens.



Citizen election observation organization VOS of Sweden observing the 2022 Swedish parliamentary elections with support of international citizen observers.

LEGAL FRAMEWORK FOR CITIZEN ELECTION OBSERVATION

The right to non-partisan citizen election observation is encapsulated in binding international obligations, declarative commitments, and well-established good practices for democratic elections. These documents and practices touch on various aspects of citizen election observation, but also complement and reinforce each other. Importantly, they apply equally to all EU states and relate observation to the entirety of the electoral process.

EU states, in the context of the OSCE, have acknowledged the important role that civil society plays in ensuring respect for human rights, including free and fair elections. The states have committed to enhance the ability of non-governmental organizations to contribute to the development of civil society and respect for human rights and fundamental freedoms. This can also be understood as a commitment to create legal and factual circumstances that enhance the ability of these organizations to observe and monitor elections.

The important role of civil society is also foreseen in the EU Treaties. Current European Commission (EC) priorities envisage greater citizen involvement and their stronger role in decision making. This is further emphasized in the 2020 European Democracy Action Plan, where it is asserted that democracy relies on citizen engagement and an active civil society, and that informed and empowered citizens are the best guarantee for the resilience of democracies.

Citizen election observation is already responding to modern challenges to democracy. Groups of citizens across the EU conduct various types of observations. These include election day observations, but also long-term monitoring dedicated to election campaign and party finance, social and traditional media, disinformation, digital violence, microtargeting, complaint resolution, and access for voters with disabilities.

However, for citizen election observation to be an effective tool, function up to its potential, and contribute to a broader reform process, a number of conditions must be in place. For election day observations, this is certainly free access to the places where the proceedings take place. For long-term monitoring, challenges include the operating conditions, access to financial resources, and the ability to translate post-election assessments and recommendations into

public policy and necessary reforms. Further obstacles include a lack of trust and understanding of the role of citizen observers and the benefits they can bring to a democratic system.

Most EU states have laws that allow citizens to observe election day voting and counting procedures. Far less introduced into law the status of non-partisan citizen observer. As a rule, the same states have adopted the procedure for accrediting these observers. Even fewer states, a quarter, have implemented all the OSCE/ODIHR recommendations regarding citizen election observation.

This coincides with the recent findings on the conditions for the functioning of civil society, published by the European Union Agency for Fundamental Rights. The Agency concluded that civil society organizations in the EU are facing challenges in terms of the legal framework, access to funding, and participation in policy and the decision-making process.²

There are many reasons for EU states to enable and support citizen election observation. Among them is the credibility of the EU and individual states, which have already indirectly guaranteed and promised their citizens the right to independent scrutiny. Perhaps the most important reason is that such observation can activate citizens, educate them about electoral procedures, and involve them in the democratic process.

International obligations and commitments

Obligations – the UN International Covenant on Civil and Political Rights determines in Article 25 that “every citizen shall have the right [...] to take part in the conduct of public affairs, directly or through freely chosen representatives”, and “to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors”.³ Importantly, the UN Human Rights Committee, through its authoritative interpretation, understands under this also the right to “independent scrutiny of the voting and counting process [...] so that electors have confidence in the security of the ballot and the counting of the votes”.⁴ This means that States-parties are obliged to create conditions, including legal ones, that will enable non-partisan citizen election observation as an inherent requirement of electoral integrity.

2 [Protecting Civic Space in the EU](#), FRA, 2021.

3 [International Covenant on Civil and Political Rights](#), Art. 25(a) and (b).

4 See Para. 20 of the [General Comment of the UN Human Rights Committee to Art. 25 of the International Covenant on Civil and Political Rights](#).

Commitments – commitments undertaken in the framework of the Organization for Security and Co-operation in Europe (OSCE) have a prominent role. Through Paragraph 8 of the 1990 Copenhagen Document, all OSCE participating States, including all EU Member States, committed to “invite observers from any other CSCE⁵ participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings”.⁶ These appropriate organizations certainly include civil society organizations, while the observation of the course of proceedings must be understood as the entirety of the electoral process. In this context, it is worth mentioning the 2010 OSCE Astana Commemorative Declaration, in which the participating States acknowledged “the important role played by civil society [...] in helping us to ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections”.⁷ Earlier, in 1999, in the OSCE Istanbul Document, the states pledged to “enhance the ability of NGOs to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms”.⁸ This can be understood also as a commitment to create legal and factual circumstances that will enhance the ability of NGOs to effectively monitor electoral rights. Finally, in the same Istanbul Document, states committed to “follow up promptly the [...] election assessment and recommendations” offered by the OSCE/ODIHR.⁹ This is another relevant commitment, as recommendations related to citizen election observation have been offered to all but two EU Member States.¹⁰

Good practices – the above obligations and commitments are complemented by the documents adopted by the Council of Europe’s Venice Commission.¹¹ In its 2002 Code of Good Practice in Electoral Matters, the Commission provides conditions for effective election observation, but also emphasizes that “counting must be transparent. Observers [...] must

5 The Conference on Security and Co-operation in Europe (CSCE) was renamed in 1995 into OSCE.

6 [Copenhagen Document](#), Para. 8.

7 [Astana Commemorative Declaration](#), 2010 OSCE Summit Meeting, Para. 6.

8 [Istanbul Document, Charter for European Security](#), Para. 27.

9 *Ibid.*, Para. 25.

10 The remaining two are [Luxembourg](#), which has only received needs assessment missions, and [Denmark](#), where the first mission was deployed for the 2022 parliamentary elections and no final report has been published at the time of completing this publication.

11 Documents discussed in this section were simultaneously adopted by the Council for Democratic Elections, which is composed of representatives of the Venice Commission, the Parliamentary Assembly of the Council of Europe and the Congress of Local and Regional Authorities of the Council of Europe.

be allowed to be present”¹², and “observation must not be confined to the election day itself”.¹³ More details are provided by the 2009 Guidelines on an Internationally Recognised Status of Election Observers, which state that “both international and domestic election observers should be granted the same freedoms and rights”.¹⁴ This guideline is relevant because some states allow international observers, without recognizing non-partisan citizen observers in their legislation. Furthermore, the Guidelines say that “specific reference to international and domestic observers should be introduced in domestic electoral legislation” in order to “guarantee the rights of observers and to avoid ambiguity in this respect”.¹⁵ Thus, merely admitting that elections are public and that anyone may attend the proceedings cannot be considered sufficient.

12 [Code of Good Practice in Electoral Matters](#), Sec. I 3.2 xiii.

13 *Ibid.*, Sec. II 3.2 b.

14 [Guidelines on an Internationally Recognised Status of Election Observers](#), Sec. I 10.

15 *Ibid.*, Sec. I 14. The clear need to establish the status of citizen observers in electoral law and provide necessary regulations can also be inferred from the 2009 Venice Commission’s [Summary of Recommendations on an International Recognised Status of Election Observers](#). The document states that “it is crucial that electoral authorities as well as domestic and international observers be well informed of their rights and duties in the election observation process” (Point 24).

EU PERSPECTIVE ON CIVIL ENGAGEMENT

A discussion of the role and contribution of citizen election observation would not be complete without a broader perspective. In fact, citizen observers are an integral part of civil society, while some civil society organizations play a role in election observation even if they do not call themselves citizen observers. Therefore, citizen observation should be considered within the broader context of EU civil society as a whole.

An active civil society is an indispensable part of any democracy. It plays an important role in supporting, promoting and defending democratic values. In recognition of this, in 2013 the UN General Assembly invited states to “facilitate the full participation of civil society in electoral processes”.¹⁶ The vitally important role of civil society is foreseen in the EU Treaties.¹⁷ The EC priorities for the period 2019-2024 include greater involvement of citizens and promoting their role in decision making.¹⁸ This is further emphasized in the 2020 EC European Democracy Action Plan, where it is asserted that democracy actually “relies on citizen engagement and an active civil society”, and that “informed and empowered citizens are the best guarantee for the resilience of our democracies”.¹⁹

In the European Democracy Action Plan, the EC admits that the very integrity of the elections is under threat, and that the environment in which journalists and civil society operate has deteriorated.²⁰ To remedy this, the Plan envisages a set of measures centered on protecting electoral integrity, promoting participation, providing support for free and independent media, and countering

16 [UN General Assembly Resolution 68/164](#) on “Strengthening the role of the United Nations in enhancing periodic and genuine elections and the promotion of democratization” (Point 17).

17 Under the [Treaty on European Union](#), EU institutions are required to “maintain an open, transparent and regular dialogue with representative associations and civil society”, while under the [Treaty on the Functioning of the European Union](#), they are obliged to conduct their work as openly as possible “to promote good governance and ensure the participation of civil society” (Arts. 11.2 and 15.1, respectively).

18 Within its priority no. 6, headlined as “A new push for European democracy”. See [Political Guidelines for the Next European Commission 2019-2021](#).

19 [EC communication on the European Democracy Action Plan](#), p. 3.

20 *Ibid.*, p. 1.

disinformation.²¹ Similar premises are behind the electoral reform initiated by the European Parliament (EP), aimed primarily at transforming separate electoral processes “into a single European election”.²² This reform includes a number of uniforming measures, the adoption of which will require significant changes to electoral laws in all EU states.²³

The work of citizen observers can help address these objectives and challenges, spurring the reform process. This activity has broad meaning and importance that is not limited to detecting fraud. For example, by observing elections, citizens educate themselves and become much more aware of political processes and threats to the democratic system. Citizen observers can provide much-needed information and assessments that can be compared with data collected by official bodies.²⁴ They can collect information on the implementation of electoral reform and on its positive and unexpected negative side effects. Lastly, citizen observers have in recent times started to focus on collecting and systematizing information on the implementation of previously made recommendations.

In fact, citizen groups across the EU already conduct various types of observations. This includes election day observations and long-term monitoring dedicated to such aspects as online campaigning expenditures (Gong, Croatia), digital violence and disinformation (Institute for Strategic Dialogue, Germany) legal proceedings (Civil Liberties Union, Hungary), access for voters with disabilities (Lithuanian Disability Forum, Lithuania), campaign banners and posters along the highways and roads (Inspiracje, Poland), campaign finance (Expert Forum, Romania), and traditional and social media (MEMO 98, Slovakia).²⁵

However, for citizen observation to be an effective tool, function up to its potential, and contribute to a broader reform process, a number of conditions must be in place. These include, in the first place, respect for fundamental rights such as freedom of association, movement, expression, and access to

21 These measures include, inter alia, support and funding for civil societies' work on disinformation, increase the transparency of political advertising in the online environment to enable monitoring and enforcement and, as a measure for consideration, the creation of a database with financial data of European political parties.

22 See [Election of the Members of the European Parliament by direct universal suffrage](#), EP legislative resolution of 3 May 2022, Point 2.

23 Among them, the establishment of a EU-wide constituency with 28 seats and related provisions on electoral campaign, campaign finance, and candidate registration. Envisaged is also the European Electoral Authority and postal voting available in all EU states.

24 For example, they can test in practice the update transparency mechanisms of political finance and online advertising. A number groups already have specific expertise and a practiced methodology for monitoring political finance and social media.

25 For more about election monitoring in Hungary, Lithuania, Poland, and Slovakia see the dedicated case studies at the end of this publication. The recent result of Gong's monitoring are available at [Still Without a Complete Picture of the Campaign on Facebook](#). The Institute for Strategic Dialogue reports are available [here](#). Information about the monitoring of campaign banners and posters in traffic lanes can be found in this [Inspiracje report](#).

public information. For election day observation, this is also free access to the locations where the proceedings take place. Meanwhile, the Election-Watch led mission that monitored the 2019 European Parliament (EP) elections concluded that only eight EU states had legislation that foresees citizen observers and a procedure for their accreditation.²⁶ The mission issued a recommendation that repeats what the OSCE/ODIHR mission recommended ten years ago, after the 2009 EP elections.²⁷

For various types of long-term monitoring, observers do not necessarily require a specific status or certification. These activities are often based on commonly available information, use legislation on access to public information or other specific provisions.²⁸ Still, even for them, there may be a need for access to the proceedings of election management bodies, if and when relevant decisions are taken.

Major challenges of a more general nature that observers face, regardless of the type of conducted observation, include the operating conditions,²⁹ access to financial resources,³⁰ and the ability to transmit post-election assessments and recommendations into public policy and necessary reforms. Further obstacles are a lack of trust, understanding, and knowledge of the role of citizen observers and the benefits they can bring to a democratic system.³¹

- 26 [Election-Watch report on the 2019 EP elections](#), table on page 26. Election-Watch, or Wahlbeobachtung, is an Austrian-based organization that monitors elections and advocates reform. More than 60 analysts and eight election observation organizations participated in this monitoring.
- 27 Recommended to include provisions that “explicitly allow for access and accreditation of international and national election observation” (ibid, p. 27). The 2009 OSCE/ODIHR mission recommended “introducing amendments into election legislation in order to ensure adequate access”. See [Report on the 2009 EP elections](#), p. 39.
- 28 Still, it must be admitted that in a number of EU states there are some procedure or aspect-specific restrictions that make monitoring substantially difficult.
- 29 According to a study by the European Union Agency for Fundamental Rights (FRA), among organizations working for human rights, 31 percent of respondents rated the conditions in which they worked in 2020 as “bad” or “very bad”. More than half stated that the situation during the year “deteriorated” or “greatly deteriorated”. See [Protecting Civic Space in the EU](#), FRA, 2021, p. 15.
- 30 Conducting specialized monitoring based solely on volunteering is hardly realistic, while advocacy requires even more long-term commitment. The 2020 [Civil Society Vision for the European Democracy Action Plan](#), a joint policy paper by 48 civil society organizations, concludes that observer groups have difficulties to identify funding sources and that only a few states provide funds for this activity (p. 43). In the FRA study, 35 percent of the surveyed civil society organizations indicated limited administrative capacity and expertise to apply for national funding, while 29 percent indicated restrictive eligibility criteria. The study also mentions that, in the context of the pandemic, funds were diverted to other priorities and donations declined. See [Protecting Civic Space in the EU](#), FRA, pp. 39-40. Meanwhile, the joint OSCE/ODIHR and Venice Commission 2015 [Guidelines on Freedom of Association](#) states that “ability to seek, secure and use resources is essential to the existence and operation of any association”, p. 43.
- 31 In this context, it is worth mentioning the recent recommendation of the [ODIHR Election Expert Team to the 2021 presidential election in Portugal](#). The mission recommended that the National Election Commission “could consider raising election stakeholders’ awareness of the benefits of permitting non-partisan observation of elections as an additional safeguard” (pp. 12-13).

In this context, the European Democracy Action Plan envisages better use of EU funds to support and reinforce the capacity of civil society and to promote civic, political, and democratic engagement.³² This can be assessed as a positive step, although the Plan hardly mentions citizen election observation.³³ Initial proposals to the Action Plan, jointly formulated by 48 civil society organizations, were much more ambitious and included recommendation to “establish and promote enabling mechanism for citizen election observation of European and Member States’ elections”.³⁴ Moreover, the organizations reiterated that “all EU Member States should include in their legislation provisions to explicitly allow for access and accreditation”.³⁵

Much more promising is the 2020 EU Citizenship Report, which focuses on bringing citizens closer to the EU. In this report, for the first time, citizen election observation was identified as “a good way to engage citizens with the electoral processes, and to improve public trust”, which is actually the essence of this activity.³⁶ Importantly, among the intended actions, the EC listed the funding of “projects on independent election observation, including monitoring by citizens”,³⁷ with “guidelines or good practices discussed within the European Cooperation Network on Elections”.³⁸ This may mean support focused not so much on the observation of individual elections, but on much-needed capacity building and, hopefully, public education and the involvement of a wider range of organizations.³⁹ These assumptions, if properly introduced, have the potential to increase the involvement of civil society groups in the observation, monitoring, and analysis of the next EP, municipal, and national elections across the EU.

32 [EC communication on the European Democracy Action Plan](#), pp. 9-10.

33 The Plan only mentions facilitating “strengthened cooperation among Member States competent authorities in addressing specific challenges (e.g. linked to election periods, elections observation, independent electoral oversight)” (*ibid.*, p. 6). This can be understood as admitting that proper regulation for citizen observation remains a challenge.

34 [Civil Society Vision for the European Democracy Action Plan](#), European Partnership for Democracy, 2020, p. 31.

35 *Ibid.*. For the descriptive part see p. 43.

36 [2020 EU Citizenship Report](#), p. 15.

37 *Ibid.*, as Action no. 3.

38 *Ibid.*, p. 15. Established in 2019, the European Cooperation Network on Elections is a platform for consultation and exchange of experiences between the authorities of the Member States competent in electoral matters.

39 Although the EC’s 2021 [Communication on protecting election integrity and promoting democratic participation](#) again does not mention citizen observation.

OVERVIEW OF REGULATIONS IN THE EU MEMBER STATES

Through their commitments under the 1990 OSCE Copenhagen Document and other relevant international documents and good practices in the field of democratic elections, EU Member States have committed to enable and facilitate non-partisan citizen election observation. In this section, we will try to assess the extent to which this commitment has been fulfilled. It must be acknowledged, first of all, that there are various approaches among states and no uniformity of legislation. This section is not intended to determine which approach is the most correct. It is meant, rather, to provide a general overview of and relevant information about the situation.⁴⁰

To this end, four specific questions were posed in regard to each state. Efforts have been made to provide authoritative answers, with brief footnote explanations where necessary. The source data comes mainly from the reports of the OSCE/ODIHR electoral missions.⁴¹ Within their mandate, these missions assess compliance with OSCE commitments, including commitments related to election observation, as contained in Paragraph 8 of the Copenhagen Document. The information collected was supplemented by checking legislation, through direct contact with electoral authorities and, where possible, by means of reports issued by citizen observers. The outcome is presented in a table and discussed in more detail below.

40 Similar reviews of regulations and practices were published in 2009 by the Venice Commission in the [Report on an Internationally Recognised Status of Election Observers](#) (Sec. II), and the [OSCE/ODIHR Final Report on the 2009 EP elections](#) (p. 39); in 2013 as part of the ODIHR's [Review of Electoral Legislation and Practice in the OSCE Participating States](#) (Sec. III 13); in 2017 by M. Lidaauer, A. Rabitsch and I. O'Rourke in their [Mapping Legislation for Citizen and International Election Observation in Europe: A Comparative Analysis on the Basis of OSCE/ODIHR Reports](#) (Nordic Journal of Human Rights 35, no 4); in 2019 by V. G. Chacón and [Observadors per la Democràcia](#) in [Comparative Study of the European Electoral Legislation in Connection with Non-Partisan Domestic Observation](#); and in 2020 as part of the Venice Commission [Report on Electoral Law and Electoral Administration in Europe](#) (p. 31).

41 All reports are available on the OSCE/ODIHR [website](#).

Can citizens observe both voting and counting procedures?

The data collected shows that a number of EU states have provisions that allow citizens to observe election day procedures. States do this in one of two ways – either through introducing the term “observer” and specifying their rights and obligations, or through more general provisions that allow all citizens to be present.⁴² In some states the situation is unclear, as the legislation neither prohibits nor explicitly permits observation, and there is no conclusive information on the practice. These instances are designated with a question mark. Overall, the results show that a moderate number of states – at least 15 (or 56 percent) – allow for the observation of voting and counting procedures.

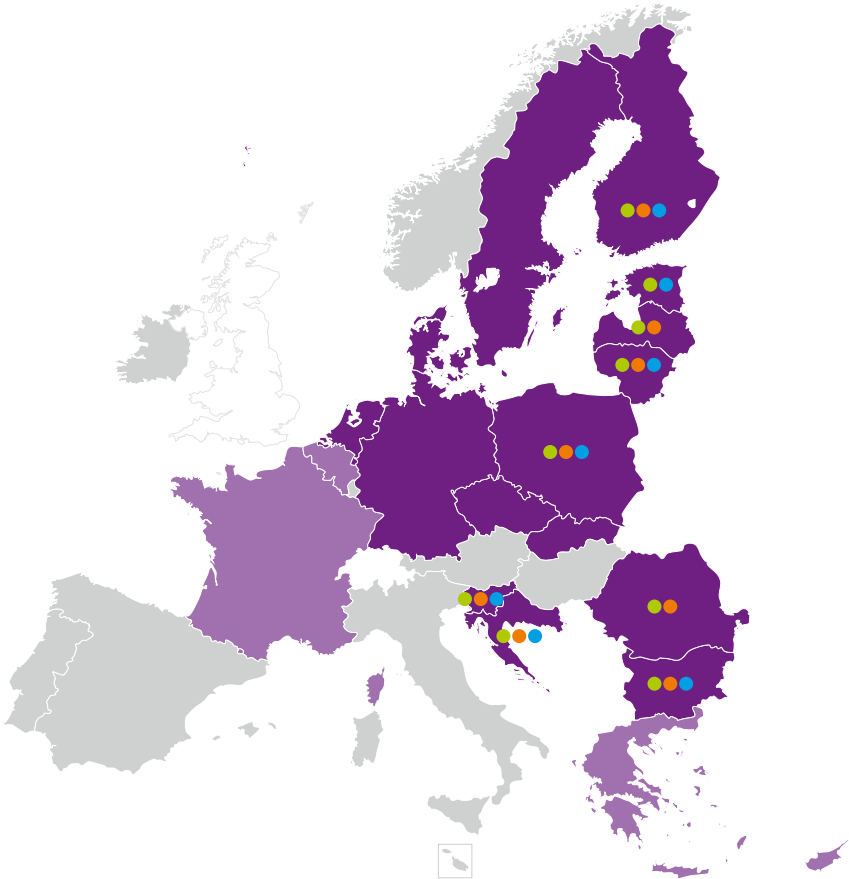
Is the status of non-partisan citizen observers recognized in electoral legislation?

Without this status, those who observe proceedings of electoral bodies – from a legal point of view – can hardly be officially recognized as observers. In saying this, it should be emphasized that civic groups conduct various thematically focused monitoring. The vast majority of them do not require a specific status. Still, in some legal contexts, such a status may be necessary to observe, for example, the verification of signatures in support of a prospective contestant, election day proceedings or the resolution of a complaint. This may also be an opportunity for a state to define the rights of observers and specify reasonable restrictions on their activities. Regardless of these considerations, the collected data shows that only nine (or 33 percent) of EU states have introduced such a status.

Is there an accreditation procedure for non-partisan citizen observers?

Accreditation confirms the official status and applicability of specific rights and obligations. Accreditation should be simple, inclusive, and certainly not restrictive for the right of observation. As a rule, the same states that introduced the status also adopted the accreditation procedure. However, there are some exceptions. Estonia legislated for observers, but does not have an accreditation procedure. In Poland, the burden to do so is on the organization that fields observers and which itself must issue credentials to each observer. In Finland, the Ministry of Justice has the power to “authorize” citizen observers, while more detailed requirements and rules are specified on the Ministry website. Altogether, eight EU states (or 30 percent) provide accreditation.

42 This is the case with Denmark, Germany, Netherlands, Slovakia, and Sweden.



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The situation is unclear, as the legislation neither prohibits nor explicitly permits observation, and there is no conclusive information on the practice



Is the status of citizen observers recognized in electoral legislation?



Is there an accreditation procedure for citizen observers?



Have all the OSCE recommendations been implemented?

Have the OSCE recommendations been implemented?

Since 2000, OSCE electoral missions have offered a total of 92 recommendations to 25 out of 27 EU states directly related to citizen election observation.⁴³ No single recommendation has been issued to Denmark and Luxembourg. For Luxembourg, only needs assessment missions were deployed, while the first mission to elections in Denmark took place in 2022 and the final report has not been published at the time of publication. Two-thirds of them are general and concern the need to provide access to all aspects of an electoral process. Others are more narrow and relate to specific aspects or procedures.⁴⁴ Assessing the level of implementation is not always easy. Thus, two types of conclusions were elaborated. Rigorous, which refers to situations where it can be concluded that the state has implemented all recommendations. Only seven EU states (or 28 percent), for which recommendations were offered, meet this condition,⁴⁵ although even within them two states could be classified rather as partially implementing recommendations.⁴⁶ Second, a more liberal approach, takes into account only general recommendations and whether the state has amended its legislation and provides for citizen observation. Some 10 EU states (or 40 percent) meet this condition, which is still a very modest number.⁴⁷

EU Member States	Can citizens observe both voting and counting procedures?	Is the status of citizen observers recognized in electoral legislation?	Is there an accreditation procedure for citizen observers?	Have the OSCE recommendations been implemented?
Austria	NO	NO	NO	NO
Belgium	?	NO	NO	NO
Bulgaria	YES	YES	YES	YES ⁴⁸
Croatia	YES	YES	YES	YES
Cyprus	?	NO	NO	NO

43 As of July 2022.

44 Recommendations often refer to both international and citizen observation, of which only the latter is considered in this study. Some recommendations are more extensive and cover several issues.

45 Denmark and Luxembourg are not included in this calculation since no recommendations were issued to them.

46 Finland legislated for domestic observers in 2013. However, the second part of the [2011 recommendation](#), to have “the system of accreditation and observer rights and responsibilities [...] stipulated in secondary legislation”, appears not to be implemented. Poland legislated for citizen observers in 2018, but the National Election Commission is not listed among the bodies to which citizen observers can be delegated. Thus, in principle, it cannot be said that Poland “provides for full access”, as recommended by the 2015 Election Assessment Mission.

47 Again, only those EU states for which recommendations were offered were taken into account in the calculations.

48 Since 2000 a large number of 14 recommendations have been formulated, but judging by the text of the 2014 [Election Code](#) and the wording of these recommendations, it can be concluded that these were in principle implemented.

EU Member States	Can citizens observe both voting and counting procedures?	Is the status of citizen observers recognized in electoral legislation?	Is there an accreditation procedure for citizen observers?	Have the OSCE recommendations been implemented?
Czech Rep.	YES ⁴⁹	NO	NO ⁵⁰	NO
Denmark	YES	NO	NO	n/a
Estonia	YES	YES ⁵¹	NO	YES ⁵²
Finland	YES	YES	YES ⁵³	YES ⁵⁴
France	? ⁵⁵	NO	NO	NO
Germany	YES	NO	NO	NO
Greece	? ⁵⁶	NO	NO	NO
Hungary	NO	NO	NO	NO
Ireland	NO ⁵⁷	NO	NO	NO
Italy	NO ⁵⁸	NO	NO	NO
Latvia	YES	YES ⁵⁹	YES	YES/NO ⁶⁰
Lithuania	YES	YES	YES	YES ⁶¹
Luxembourg	NO	NO	NO	n/a
Malta	NO ⁶²	NO	NO	NO
Netherlands	YES ⁶³	NO	NO	n/a/? ⁶⁴
Poland	YES	YES	YES ⁶⁵	YES ⁶⁶
Portugal	NO ⁶⁷	NO	NO	NO
Romania	YES	YES	YES	YES/NO ⁶⁸
Slovakia	YES	NO ⁶⁹	NO	YES/NO ⁷⁰
Slovenia	YES	YES ⁷¹	YES	YES
Spain	NO ⁷²	NO	NO	NO
Sweden	YES	NO	NO	NO
Assessed Positively	15 states (56 percent)	9 states (33 percent)	8 states (30 percent)	7 states (28 percent)/ 10 states (40 percent)⁷³

49 Anyone can be present at the vote, but to observe vote counting a separate permit is required from the State Election Commission.

50 Although the State Electoral Commission issues “permits allowing additional persons to be present during the counting” ([Law on Parliamentary Elections](#), Sec. 8(2)h).

51 Although there is no distinction between citizen and international observers.

52 The [2015 Election Expert Team](#) recommended that the Electronic Voting Committee should “formally adopt and publish all decisions related to Internet voting in sessions open to observers”, but later, as part of the restructuring of the election administration, the Committee was eliminated.

53 The Ministry of Justice “may authorize” domestic observers in the “entire country”, while a municipal election board “in the municipality” ([Election Act](#), Art. 184). More detailed requirements and rules are specified on the Ministry [website](#).

54 Although it appears that the second part of the [2011 recommendation](#), to have “the system of accreditation and observer rights and responsibilities [...] stipulated in secondary legislation”, has not been implemented.

55 It appears that only the count is public, while access to voting is at the discretion of the election administration. The [Electoral Code](#) stipulates that the counting must be conducted “under the eyes of the voters” and that the “tables on which the counting takes place are laid out in such a way that the voters can circulate around them” (Art. R63).

- 56 The law does not provide for the presence of citizen observers, but the authorities have informed the [2019 Needs Assessment Mission](#) that “it would accommodate potential requests” to accredit observers.
- 57 Albeit, the returning officer responsible for conducting elections in constituencies has a discretionary power to authorize “other persons” (1992 Electoral Act, Art. 98i).
- 58 Only voters that present a certificate of registration in a given precinct may enter the voting room.
- 59 Although only through the decision of the Central Election Commission.
- 60 Initial recommendations were at least partially implemented through the CEC decisions, but not the subsequent one to amend the legislation to explicitly provide for the presence of observers.
- 61 The [2016 Election Assessment Mission](#) recommended that the law explicitly provide for access to all stages of the electoral process. [The Law on Parliamentary Elections](#) lists voting and counting as accessible for observation, but nothing about the sessions of Constituency and Central Electoral Commission. It stipulates, however, that the accreditation issued by the Central Electoral Commission is valid “throughout the territory” and it is commonly understood and practiced that this also includes the above-mentioned sessions.
- 62 In the [General Elections Act](#), it is stated that commissioners “shall not allow any person not being [...] lawfully entrusted with some duty in connection with the elections, or a person entitled to vote at that polling place, to enter such polling place; nor shall they permit any voter or other person to remain in the polling place longer than necessary” (Art. 76).
- 63 The [2017 Election Assessment Mission](#) established that “all citizens can observe election day procedures and sessions of election administration bodies”. This was repeated by the [2021 Needs Assessment Mission](#).
- 64 Two very specific recommendations were issued. The [2006 Election Assessment Mission](#) offered a recommendation related to electronic voting. This can be considered as in effect implemented as electronic voting was abolished in 2008. The [2017 Election Assessment Mission](#) recommended that “consideration could be given to amend the election legislation to make all election-related meetings public”. The same report acknowledged however that “all citizens can observe election day procedures and sessions of election administration bodies”. In fact, the [Elections Act](#) explicitly specifies the meetings that are public, and almost all are. Moreover, this recommendation words specifically “consideration” that “could be given”. Due to the fact that it is difficult to determine whether it was satisfactorily considered, and due to this very specific situation, it was decided to code the Netherlands with a question mark.
- 65 In principle yes, although responsibility for this rests with the nominating organization, which must issue credentials attesting the status of each observer.
- 66 Although the National Electoral Commission is not listed among the electoral bodies whose work (sessions) can be observed.
- 67 In the [Law governing Elections to the Assembly of the Republic](#) it is stated that the presiding officer “must order any citizens who cannot vote there to leave the location” (Art. 93.1). The [2021 Election Expert Team](#) to the presidential election established that “citizens who are not voting and are not candidates or their representatives should be asked to leave the polling station”.
- 68 Several specific recommendations were formulated, in particular regarding the right to attend sessions of electoral commissions at all levels.
- 69 The [Act on Conditions for the Exercise of the Right to Vote and on the Amendments to Certain Acts](#) mentions only “other persons, who manifested an interest to observe the conduct of the elections” (Art. 27(3)).
- 70 The initial recommendations were partially implemented through regulation allowing access to polling stations to “anyone who has expressed interest in observing the conduct of the elections and counting of votes” (Art. 31(3) of the 2004 [Act on Election to the National Council](#)). These were followed by more specific and still pending recommendations explicitly to allow full access to all stages of the electoral process, including the CEC sessions.
- 71 The [Act on National Assembly Elections](#) (Art. 30) does not distinguish between citizen and international observers, but in the State Election Commission [Rulebook on the criteria, conditions and procedure for obtaining accreditation for election observation](#), among the eligible entities are listed representatives of domestic organizations and associations (Art. 2(1)).
- 72 Only counting is public and accessible to citizen observers. For voting, the [Organic Law on General Election Regime](#) lists persons who are allowed to enter polling stations, and citizen observers are not mentioned among them (Arts. 95.2 and 91.3, respectively).
- 73 Two states not included in these calculations as no single recommendation was offered to them. For details see above to the explanatory comments and footnotes under the question “have the OSCE recommendations been implemented?”.

WHY PROMOTE CITIZEN OBSERVATION?

Election observation has traditionally been associated with fraud prevention, which in turn was viewed as a component of trust-building. With this narrow understanding, it could indeed be considered redundant for well-established democracies.⁷⁴ However, over the past decades, election observation, including observations conducted by civil society groups, has evolved into a much more constructive, forward-looking, and holistic instrument of democracy support.⁷⁵ At present, it is centered on the assessment of electoral processes, where the key output is a final report with recommendations for improvement substantiated in international obligations and commitments.⁷⁶ Nowadays, election observation is not an end in itself, but an opportunity and a reason for further dialogue and advocacy activities to support and strengthen electoral integrity.⁷⁷

Certain trends can be identified with regard to the situation of citizen observers in the EU states. There have been a number of cases where states have adopted the observer status and legislated for citizen observation. Estonia did so in 2016, Slovenia in 2017, Lithuania and Poland in 2018. Then this positive

74 The 2009 Venice Commission [Report on an Internationally Recognised Status of Election Observers](#) states that in “older’ democracies, the observation and control of elections – in the traditional sense – is fully implemented ‘within’ the electoral process by its participants, using the general legal tools”, and that “election observation *stricto sensu* is possible, but is not explicitly foreseen, because its aim may be reached by other regular means” (Point 16).

75 In the preamble of the 2012 [Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations](#), it is stated that citizen observers “can be considered as specialized human rights defenders focused on civil and political rights”. This is also reflected in the list of “elements of the electoral process that should be evaluated” (Point 17 of the Declaration).

76 Report “that represents a snapshot of the state of democracy in the host country, and documentation of the gaps that exist”, as discussed by D. Tuccinardi, F. Balme, and G. McCormack in [“Evolution of Election Observation in the European Union: From Fraud Prevention to Democracy Support”](#), in *The Integrity of Elections: The Role of Regional Organizations*, International IDEA, 2012, pp. 64-65. For more on the importance of international obligations and commitments see to L. Nagore and D. Tuccinardi in the Encyclopaedia of the ACE Electoral Knowledge Network, [Citizen Electoral Observation](#), Sec. VIII, “Standards and Obligations: In Search of a Common Language”.

77 In the Encyclopaedia of the ACE Electoral Knowledge Network, under [Election Observation](#), Sec. “After Election Day: Recommendations, Follow up, Advocacy”, it is stated in particular that “citizen observers can help the state to better fulfil its own human rights obligations through their recommendations on the electoral process and increased attention on following up”.

trend stopped. The same is true for the implementation of the OSCE/ODIHR recommendations related to election observation – recommendations, in fact, aimed at empowering the ability of civil society to defend and strengthen democratic system. This coincides with the recent findings on the condition for the functioning of civil society, published in 2021 by the European Union Agency for Fundamental Rights. According to the agency, a suitable legal framework, access to funding, participation in policy and the decision-making process are among major challenges that civil society organizations are facing, and that these have only been exacerbated by the Covid pandemic.⁷⁸

Meanwhile, there are many reasons and ways that EU states can benefit from enabling and supporting citizen election observation. These states have already indirectly guaranteed and promised their citizens the right to “independent scrutiny of the voting and counting process”.⁷⁹ This was done through the ratification of the ICCPR and the commitments made within the OSCE.⁸⁰ The fulfilment of this should be regarded as a positive step in respect to international law and human rights commitments.⁸¹ It is also a matter of credibility of the EU and individual states, which, through their involvement in the OSCE and EU electoral missions, assess the fulfilment of the same obligations and recommend for such observation in other states.⁸²

In this context, it is worth mentioning that both the EP and the High Representative of the European Union for Foreign Affairs and Security Policy are among official “supporters” of the Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations (Declaration of Principles).⁸³ This document, endorsed by some 250 civic organizations, lists the conditions necessary for effective observation. Among them are electoral bodies and authorities that honor the right to participate in public affairs, providing citizen observers with “access to polling stations and all other election related facilities and processes”.⁸⁴ In practice, however, some EU states

78 [Protecting Civic Space in the EU](#), FRA, 2021, quote from p. 14, but the whole report is relevant.

79 [General Comment](#) of the UN Human Rights Committee to Art. 25 of the ICCPR.

80 More on this can be read in the subsection on International Obligations and Commitments, chapter one. While the ICCPR “requires independent supervision of the electoral process, it still necessitates an individual complaint against the rejection of observer accreditation”, [International Obligations for Elections: Guidelines for Legal Frameworks](#), International IDEA, 2014 (p. 152).

81 The 2009 Venice Commission [Summary of Recommendations on an Internationally Recognised Status of Election Observers](#) states that “European countries should show a positive example and, if necessary, reform their electoral legislation in order to include provisions on the observation process” (Point 23).

82 The EU is one of the leading organizations in election observation. Since 2000, it has deployed around 300 missions. In contrast, the EC in its [Report on the 2019 elections to the EP](#) acknowledges that election observation empowers and engages citizens, but also that “Member States have different approaches on this” (p. 15).

83 [Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations](#). The list of official international supporters as of 3 April 2012 is on the second page.

84 *Ibid.*, Point 18b.



Short-term observers of the citizen observer organization Political Accountability Foundation during the 2020 presidential election in Poland.

have legislated or otherwise granted access for international but not necessarily for citizen observers and their local organizations.⁸⁵

Regardless of these considerations, perhaps the most important reason for introducing the status of citizen observer and to legislate for their rights and duties, is the fact that such observations are an excellent tool for actively engaging citizens in the democratic process and educating them about electoral procedures. This positive aspect is particularly relevant to foster and build a culture of participation. Such legal recognition, while not necessary for all types of observation and all legal contexts, will certainly go hand in hand with recognition of the role and contribution that citizen election observers can make to society.⁸⁶

Another argument is that the lack of explicit provisions, in particular with regard to the observation of the proceedings of electoral commissions, leads to confusion and unreasonable restrictions. There is uncertainty about what observers can and cannot do for both election officials and the observers themselves.⁸⁷ Furthermore, when legislation allows access for each person, not

85 The 2009 Venice Commission [Guidelines on an Internationally Recognised Status of Election Observers](#) state that in principle “both international and domestic election observers should be granted the same freedoms and rights” (Sec. I 10).

86 This need not entail extensive provisions. As shown by the examples of many states, including EU states, simple solutions are the best in this regard.

87 The 2009 Venice Commission [Guidelines on an Internationally Recognised Status of Election Observers](#) states that “to guarantee the rights of observers and to avoid ambiguity in this respect, specific reference to international and domestic observers should be introduced in domestic electoral legislation” (Sec. I 14). The Democracy Volunteers [Report on the 2021 local elections in Denmark](#) finds that “as no legislation is in place for election observers, and as such no accreditation process is in place and consequently training for those running polling stations has no need to deal with the attendance of observers, the process has a high degree of concern when observers might be present” (pp. 11-12). Similarly, the OSCE/ODIHR mission to the 2017 parliamentary election in the Czech Republic notes in the [Final Report](#) that “the lack of legal provisions on election observation prompted uncertainty among PSC members about the rights of observers to follow all stages of the electoral process” (footnote 7).

mentioning citizen observers, there can be dissonance as to the status of those present because the observers in most cases represent the organization that has deployed and coordinates them.⁸⁸

Recently, the integrity of elections has been compromised by relatively new factors related to disinformation, misuse of social media, and increasingly difficult campaign finance controls. On top of that, rapid social and technological changes force frequent amendments to electoral law, sometimes undermining the principle of its stability and increasing the risk of negative side effects. Faced with this complex reality, EU institutions and states should consider citizen observers as important partners who often can much better identify and understand new threats and phenomena. Partners that can assess different aspects of the electoral processes, significantly contribute to reforms and even act as an early warning mechanism that can “anticipate and prevent the deviation from international principles”.⁸⁹

The extent to which civil society groups are able to fulfil this huge and crucial role depends on many factors. These, as already discussed in this study, include enabling legislation, access to financial resources that ensure continuous and stable operation, and the willingness of EU and national institutions and policy makers to involve them, use their expertise and give serious consideration to the proposals made.

Regardless of whether such conditions exist in a given state or, more broadly, whether they exist to monitor EU-wide elections to the EP, one thing remains certain. In this role and for this task, citizen observers cannot and will not be replaced by international observers or institutional supervision exercised by the election administration and various national and EU bodies. This is because each of these components has its own specific strengths, limitations, and distinct role to play. In fact, the response to the challenges facing democratic systems is the synergy of their efforts. To achieve this objective, however, much more needs to be done to facilitate and strengthen citizens’ involvement in electoral processes, including through citizen election observation within the EU and its Member States.

88 The OSCE Copenhagen Document actually mentions access for “private institutions and organizations” (Para. 8).

89 [Mapping Legislation for Citizen and International Election Observation in Europe: A Comparative Analysis on the Basis of OSCE/ODIHR Reports](#), M. Lidauer, A. Rabitsch, and I. O’Rourke, *Nordic Journal of Human Rights* 35, no 4, p. 374.

IDEAS FOR ADVOCACY BY CITIZEN OBSERVERS

In some states, legislation effectively restricts citizen observers' access to electoral procedures or documents. These restrictions may apply to sessions of electoral bodies, verification of signatures of support, examination of complaints, and information on donations and expenditures of parties and candidates. Civil society organizations are well positioned to advocate their removal. The Declaration of Principles, for those that subscribed to this document, even states that they have a responsibility to do so.⁹⁰

Citizen observers, while observing elections, not only assess them, but also test the legislation, regulations, and practices relevant to effective observation. These are often subject to interpretation.⁹¹ Thus for a civil society organization to initiate an advocacy activity, it is important to have an official decision, position or interpretation that concerns the issue to be addressed and that this is issued by the relevant state institution. This may be, for example, a decision on the application for accreditation or related to access to the proceedings of the

90 In the [Declaration of Principles](#), it is stated that non-partisan citizen election observation organizations “have a responsibility” to advocate for “improvements in legal frameworks for elections and electoral administration, accountability in electoral and political processes, removal of barriers to electoral participation by women, youth, indigenous peoples and other marginalized populations, as well as to promote citizen participation in public affairs” (Point 15).

91 In Austria, for the 2016 repeated second round of the presidential elections, accreditation was granted to Slovak and South Korean observers, as “they come from an OSCE participating state and an OSCE partner for co-operation country respectively”, while a request from citizen observers was rejected. Meanwhile, the [Federal Law on National Council Elections](#) in Art. 20a(1) only allows the OSCE “and its participating States to delegate international election observers”. See [Mapping Legislation for Citizen and International Election Observation in Europe: A Comparative Analysis on the Basis of OSCE/ODIHR Reports](#), M. Lidauer, A. Rabitsch, and I. O’Rourke, *Nordic Journal of Human Rights* 35, no. 4, p. 372. For Spain, the [Organic Law on General Election Regime](#) is silent on both citizen and international observers, and in Art. 91.3 contains a closed catalogue of those who may be present at polling stations during voting. Nevertheless, OSCE/ODIHR observers are allowed as an exception, under the commitments enshrined in the Copenhagen Document. In contrast, the 2017 and 2019 citizen observers’ requests were rejected due to the lack of a legal basis, even though the Copenhagen Document commits to both international and citizen observation. See in [Comparative Study of the European Electoral Legislation in Connection with Non-Partisan Domestic Observation](#), V. G. Chacón, *Observadors per la Democràcia*, 2019, pp. 26-32.

election commission.⁹² This can certainly help to document, define, and better understand the nature of the restriction that has to be addressed and will be useful for further activities.

Electoral advocacy is a long-term endeavor, and, in most cases, its success can only be achieved through legislative amendments. Besides, there is no guarantee that the proposed solution will be implemented, and the decisive factors are the political will, agenda, and arrangements within the ruling majority. An illustrative example is Poland, where advocacy efforts began in 2011 but the provisions on citizen observers were adopted only seven years later. Notwithstanding this, it is relevant and important that civil society organizations raise the issue of restrictions that hinder observation activities.

Use multiple advocacy methods

Advocacy should involve multiple methods. It is important to raise the advocated issue and obtain the official position of the main electoral body and other relevant stakeholders. In particular, it is important to obtain the interest and support of the ombudsman, who may also *ex officio* undertake advocacy activities and use its legal prerogatives. It is also vitally important to establish working relationships with parliamentary committees and parliamentarians involved in electoral reforms. This should be done even, or rather in particular, when the amending electoral law has not yet been registered. In any case, the amendments related to observers, if adopted, are likely to be part of a broader reform.⁹³

Publish to define the agenda

An activity that should not be underestimated is publishing on the issue that needs to be addressed. This should include own publications but also articles in scientific journals, which, although they have a limited audience, are important for reaching persons dealing with electoral law and its reforms. Further

92 In the case of Austria, the founders of Election-Watch have requested the Department of Electoral Affairs at the Federal Ministry of Interior to be accredited as citizen observers, but as explained to them, the legal framework “does not foresee citizen election observation”. See [Experiences with Citizen Election Observation in Austria](#), M. Lidauer, as presented during the 2017 OSCE/ODIHR Electoral Seminar, p. 1. However, in 2017, they were denied accreditation “on the grounds of a Constitutional Court ruling stating that those not explicitly allowed at polling stations are not permitted to attend”. See [OSCE/ODIHR Final Report on the 2017 parliamentary elections](#), p. 15. In the case of Spain, 2017 and 2019 requests for accreditation were rejected due to the lack of a legal basis. In particular, in the second case, it was stated that the term “domestic observer” does not comply with the provisions of the [Organic Law on General Election Regime](#), which resulted in the impossibility of meeting the request. See [Comparative Study of the European Electoral Legislation in Connection with Non-Partisan Domestic Observation](#), V. G. Chacón, Observadors per la Democràcia, 2019, p. 28.

93 It will be much more difficult to incorporate a new postulate once the draft law is ready. It is highly unlikely to have a separate amending law that would only contain provisions for citizen observers.

advances can be made by presenting reports and findings at various conferences, forums, and events related to elections and active civil society.⁹⁴

Petition decision-makers

An effective advocacy method can be submitting an official petition addressed to parliament or its competent committee. This method depends on the specific, country-based regulations and arrangements. It was used in Poland twice, when petitions were submitted to the Senate (upper house of the parliament) demanding it to enable the observation of proceedings of electoral bodies. It is important to note that, in the case of Poland, a dedicated committee is obliged to decide on such submissions and has the prerogative to ask about the commencement of legislative works.⁹⁵

Use judicial precedent

The above measures should not exclude the possibility of defining civil society access to electoral proceedings and related documents through a judiciary decision. Examples of this come from Slovakia and Croatia, both from 1998.⁹⁶ In Croatia, the Election Commission rejected requests by GONG⁹⁷ and the Croatian Helsinki Committee for Human Rights to approve observation during the local elections. This was successfully challenged in the Constitutional Court, which “expresses its legal position on the need for a more broad interpretation of the provisions on the rights of observers”.⁹⁸

Use recommendations of international observers

Recommendations from OSCE/ODIHR electoral missions should be used to substantiate, support, and strengthen the advocacy profile, whenever appropriate and possible. This is of particular relevance when advocating for access to the proceedings of electoral bodies – a frequent subject of these recommendations. Under the OSCE Copenhagen Document, EU states committed to enable such observations, while under the Istanbul Document, when deficiencies were

94 In M. Lidauer’s [Experiences with Citizen Election Observation in Austria](#), which also covers the Election-Watch advocacy, it is stated that “we have complemented our advocacy work with targeted press releases, journal articles, and academic publications. Ahead of the recent legislative elections, we have organized a panel discussion at which six different Austrian civil society organizations presented their priorities and proposals for electoral reforms” (p. 4).

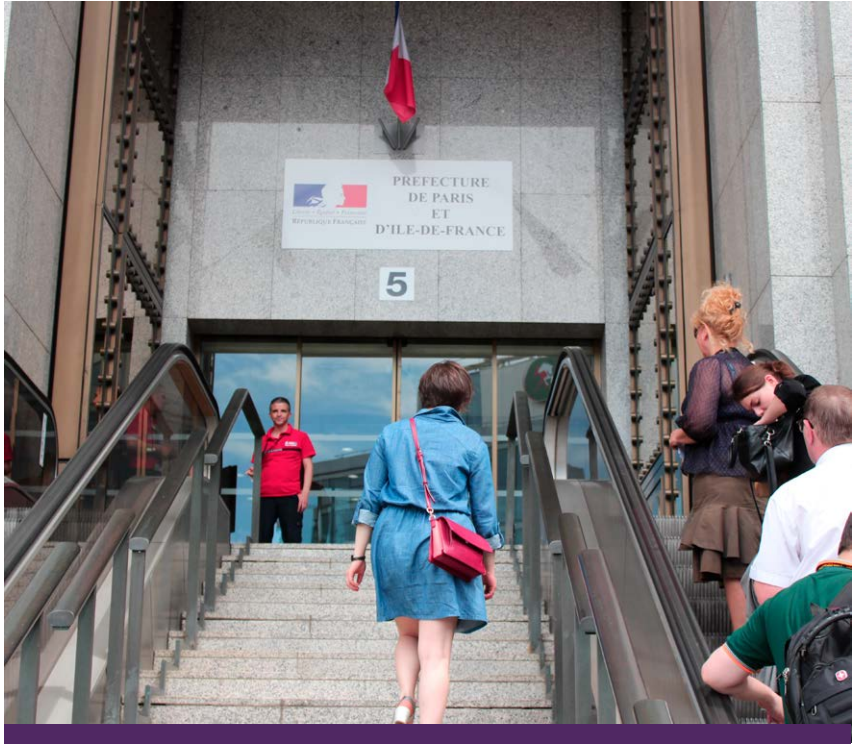
95 See the 2011 [petition to initiate a legislative initiative to enable the observation of elections in Poland and the works of electoral bodies, including precinct election commissions, by independent national observers](#) and the 2016 [petition to take a legislative initiative to amend the Election Code to introduce the institution of national election observers unrelated to election committees](#).

96 The Slovak case is discussed in the Case Studies section above.

97 Citizens organize to oversee voting (Građani organizirano nadgledaju glasanje, GONG).

98 See the [Press Release](#) of the Constitutional Court of 9 October 1998, and its discussion in [Comparative Study of the European Electoral Legislation in Connection with Non-Partisan Domestic Observation](#), V. G. Chacón, Observadors per la Democràcia, 2019, pp. 25-26.

identified, “to follow up promptly the ODIHR’s [...] recommendations”.⁹⁹ In that way, when referring to these recommendations, civil society organizations support and substantiate their position within international commitments. Then, when advocating, does so both for the rights of citizen election observers and to implement the given recommendation.¹⁰⁰



Citizen observers observing the 2017 French parliamentary elections during an EPDE organized mission.

99 [Istanbul Document, Charter for European Security](#), Para. 25.

100 M. Lidauer, in [Experiences with Citizen Election Observation in Austria](#), states that Election-Watch “flag issues where Austria has not yet implemented OSCE/ODIHR recommendations with national stakeholders. By doing so, we also see our initiative as a follow-up mechanism” (p. 4).

CONCLUSIONS AND RECOMMENDATIONS

Citizen election observation is one of the key instruments in building, supporting, and defending democracy. It enables direct citizen involvement in public life, promotes democratic reform and electoral integrity.

However, this study found that the legal framework in the EU states is not always optimal for effective election observation. The same is true of operating conditions, developing organizational structures, accumulating experiences, and sustaining the work of the civil society organizations involved in election observation.

With some exceptions, most of the EU states do not have active, specialized citizen election observation organizations. It should be noted that even when such organizations do exist, their work depends on the availability of financial and human resources and that they often observe elections either sporadically or as part of much wider activities. Also noteworthy is that there is not enough transnational cooperation between organizations in terms of exchange of know-how and experiences, and certainly not enough promotional activities, advocacy, and follow up on recommendations.

There is also a shortage of knowledge and understanding of the role of citizen observation, the types of activities that observers conduct, and the benefits they can bring to society. Still, too often, observation is associated with and viewed narrowly as fraud-seeking, or at best a trust-building mechanism. This misconception affects how observers are perceived and deters the ability of civil society organizations to contribute to electoral integrity.

At the same time, there exist a number of significant, election-related challenges, both at the national and EU level. They concern, inter alia, organizational aspects, the use of electronic technologies, alternative voting methods, and access to voting for citizens abroad. To this can certainly be added areas that remain a challenge for any democracy, such as election campaign finance and the use of social media for campaigning and, unfortunately, disinformation. All of this deserves to be observed and analyzed by citizen organizations, which can then make independent assessments and contribute to electoral reforms.

The findings of this study are meant to provide impetus to develop and strengthen citizen election observation in EU Member States. For this purpose, following recommendations are addressed to both EU institutions and member states. They are of a general nature and are intended to point the way towards reforms aimed at strengthening the integrity of elections by promoting citizen control over their conduct.

1. EU institutions and Member States should work together to protect and increase space for civil society organizations to operate, including by promoting participation in monitoring and reporting on electoral processes.
2. EU Member States should include provisions in their electoral laws to ensure and facilitate access of citizen observers to all electoral proceedings, including sessions of electoral commissions at all levels, thus implementing the OSCE/ODIHR recommendations.
3. EU Member States should review and, if necessary, amend laws to ensure that NGOs have access to all important data and documentation needed for effective monitoring of electoral processes
4. The EU should create instruments of financial support for citizen organizations that evaluate election processes and monitor all aspects of the electoral cycle before and after the election campaigns, including organizations dealing with voter education
5. The EU institutions should develop a set of measures ahead of the 2024 EP elections to strengthen the capacity of civil society organizations to observe various aspects of these elections and encourage Member States to take the necessary measures to fully comply with the OSCE's commitments to citizen election observation.
6. Election management bodies of EU Member States should specify and emphasize the role, rights and obligations of citizen election observers in relevant regulations and manuals and ensure that the role of citizen observers is communicated at all levels of election administration, i.e. in the instruction materials.

ANNEX: CASE STUDIES

For a selected group of EU states, the legislation, regulations, practices and activities of non-partisan citizen observers are discussed in more detail below. This group includes mainly Central European states, but also one from Northern and one from Western Europe. Among them there are states that do not have specific provisions for citizen observers, but also those that have legislated for them quite recently and have practical experience in the matter. The areas of thematic focus of citizen observation in these states vary greatly, from election day observation to campaign finance, traditional and social media, disinformation, and access for voters with disabilities. Altogether, this gives a diverse group with a wide spectrum of legal solutions, approaches and types of activities of civil society organizations in regard to elections.

Germany

The legislation does not mention citizen observers but strongly emphasizes the public nature of elections. The Federal Elections Act determines that electoral commissions “shall meet, confer and make their decisions in public session”¹⁰¹ and that “polling should be public”.¹⁰² The Federal Electoral Regulations state that “during the poll, as well as during the establishment and declaration of the election result, the public shall have access to the polling station”.¹⁰³

The importance of such access and the principle of public elections are further emphasized in the judgement of the Federal Constitutional Court on the use of electronic voting machines.¹⁰⁴ The Court deliberated also on the necessity of monitoring elections, noting in particular that “monitoring of the election procedure must also be a matter for and a task of the citizen”,¹⁰⁵ and that “the

101 [Federal Elections Act](#), Sec. 10(1).

102 *Ibid.*, Sec. 31.

103 [Federal Electoral Regulations](#), Sec. 54.

104 [Federal Constitutional Court judgement](#) of 3 March 2009 (2 BvC 3/07, 2 BvC 4/07).

105 *Ibid.*, II 2 bb.

public nature of elections requires that all essential steps in the elections are subject to public examinability”.¹⁰⁶

In practical terms, the above provisions imply that observation should be possible not only during voting and counting procedures, but also during all sessions of electoral bodies. However, the electoral law does not mention citizen observers, there is no such status in the law, and only the term “the public” is used.¹⁰⁷

The usefulness of having regulations for election observation – or at least an explanation on the application of the more general provisions – has been reflected in various guidelines and instructions. One example is the Business Instruction of the Office of the State Returning Office in Hamburg, issued for election boards for the 2021 federal elections.¹⁰⁸ This Instruction uses the term “election observers”¹⁰⁹ and includes Guidelines for Election Observation detailing what is allowed and listing the related limitations.¹¹⁰ It should be noted, however, that a review of similar documents issued by various electoral bodies shows that they do not always contain such specifications. Even when specifications are provided, they do not always cover a uniform set of aspects.

With reference to the international commitments, as contained in Paragraph 8 of the 1990 OSCE Copenhagen Document, the OSCE/ODIHR mission to the 2009 federal elections recommended that consideration be given to “introducing an explicit provision for election observation, in particular setting out rights and responsibilities of observers”.¹¹¹ Essentially the same was postulated ten years later by the European Exchange, in connection with the 2020 reform of

106 Ibid., II 2 b. Furthermore, that “only if the electorate can reliably convince itself of the lawfulness of the transfer act, if the elections are therefore implemented ‘before the eyes of the public’ it is possible to guarantee the trust of the sovereign” (ibid., II 2 aa).

107 From the above quoted Sec. 54 of the [Federal Electoral Regulations](#).

108 More precisely, this [Instruction](#) was prepared in collaboration with district offices in Hamburg. Another example can be [Election Instruction](#) issued by the Bavarian State Ministry of the Interior, for Sport and Integration. This Instruction mentions “persons present (e.g. ‘election observers’)” and lists their potential actions that are not “covered by the principle of public elections” (Point 2.1).

109 See [Business Instructions for Election Boards of the 2021 Federal Election](#), Office of the State Returning Office in Hamburg, Point 4.2. Likewise, the State Returning Officer of the State of Brandenburg issued [Information for the Members of the Election Boards and Postal Voting Boards](#), which includes Principles of Public Election and Election Observation (Point 1.9). Within them, it indicates that it “must be ensured that election observers have no access to election documents and no insight into the voters’ register”. Thus, the Information specifically mentions election observers and applies to them more general provisions.

110 The Guidelines specify the activities for which the presence is allowed and explicitly forbids approaching or influencing voters, wearing partisan symbols, interfering with the work of the election board, accessing voter registers, inquiring who voted, requesting a recount, touching ballots, photo or video recording without the consent of the persons depicted. Ibid., p. 61.

111 [Final Report of the OSCE/ODIHR Election Assessment Mission to the 2009 Federal Parliament elections](#), p. 22.

the electoral law.¹¹² This recommendation was repeated by the ODIHR mission to the 2021 federal elections.¹¹³

Hungary

The legislation does not provide for citizen election observation despite repeated recommendations by international observer missions. The law allows parties eligible to appoint members of the National Election Commissions to also deploy representatives to scrutinize the processing of postal votes and vote counting at the polling station level, as well as tabulation in the commissions at the constituency level. Access of political parties to the proceedings of election bureaus at the local and constituency level is not regulated.

Civil society organizations in Hungary have for a long time been advocating for the extension of observer rights to non-partisan citizen observers, and this has also repeatedly been recommended by the OSCE/ODIHR.¹¹⁴ This recommendation is particularly salient given the critical remarks of international election observers concerning the legal and operational environment in which civil society organizations operate in Hungary. Thus, in 2018 OSCE/ODIHR noted the concerns of many of its interlocutors that the restrictions introduced since 2017 pose a risk to “shrink civil society space and limit public discourse that is critical of the government”.¹¹⁵ The 2022 preliminary statement of OSCE/ODIHR does not contain any similar assessments, even though the situation of civil society organizations has not improved.

Since 2014, civil society organizations have actively been following the electoral process in Hungary. The Civil Liberties Union (TASZ) report on the 2014 elections assessed the observance of fundamental rights.¹¹⁶ In 2018, TASZ focused its efforts on assessing the implementation of previous recommendations made by international observers.¹¹⁷ TASZ noted in this assessment that, in the absence of opportunities to deploy observers, civil society organizations chose to aid electoral contestants in deploying members of the polling stations committees, thus aiming to bridge the gap between the functions of administering the elections and observing them in an impartial manner.

112 The European Exchange [letter to the Federal Parliament](#) as of February 2020. The European Exchange is the founder and coordinating organization of EPDE.

113 [Final Report of the ODIHR Election Expert Team to the 2021 Federal Parliament elections](#), p. 14.

114 [Final Report of the ODIHR Limited Election Observation Mission to the 2018 Parliamentary elections](#), Priority Recommendation no. 7.

115 [Final Report of the ODIHR Limited Election Observation Mission to the 2018 Parliamentary elections](#), p. 4.

116 See [TASZ Report on the fundamental rights assessment of the 2014 elections](#).

117 See [TASZ Report on the Implementation of the ODIHR Recommendations from 2014](#).



Counting of the ballots during the 2022 parliamentary elections in Hungary. Photo taken by an EPDE international observer, as domestic citizen observation inside polling stations is not permitted.

In 2022, the same effort was repeated at an even larger scale by the coalition 20k22, which recruited more than 27,000 volunteers to serve as polling staff, of whom 19,462 were delegated by the major opposition block. Representatives of these initiatives acknowledge that this was the approach taken due to and in response to the absence of legal opportunity to deploy impartial observers. The aim of fraud prevention was nonetheless achieved, in their opinion, as the deployed polling staff were trained extensively and, reportedly, often displayed higher levels of qualification than other polling staff.

It is still clear, however, that the fundamental aim of impartial and detailed reporting on all stages of the electoral process was not achieved despite significant efforts to have observers present at polling stations on election day. Representatives of these citizen observers/polling staff also acknowledge that this method of deploying activists bears significant risks, as their motivation to serve in such a peculiar capacity might indeed be linked with their political preferences. These risks were mitigated to a significant degree by extensive training, codes of conduct, and the involvement of several electoral contestants in the initiative.

The lesson learned from the experience of Hungary in 2022 is two-fold: (1) comprehensive election observation is difficult to achieve without clear legal provisions for citizen observation, and (2) in the absence of provisions for citizen observation, there are significant risks of perceived or real political affiliation of deployed activists, even when mitigated by extensive training.

Lithuania

Provisions for citizen election observers were adopted in 2018,¹¹⁸ with the intention to “create opportunities for every citizen of the Republic of Lithuania who has the right to vote [...] to be an observer”.¹¹⁹ The legislature also referenced the “observations” presented in the report of the OSCE/ODIHR mission to the 2016 parliamentary elections, which opted for such a change.¹²⁰

Legislation comprehensively regulates the rights and obligations of election observers.¹²¹ The Law on Parliamentary Elections provides that observers may be nominated by non-governmental organizations “whose activities are related to elections or the protection of human rights”.¹²² Accreditation issued by the Central Electoral Commission (CEC) is valid “throughout the territory” of Lithuania and for polling stations located abroad.¹²³ It is commonly understood and practiced that this applies to all sessions of electoral commissions, not only to voting and counting as expressly stipulated in the law.¹²⁴

Large-scale election observation was popularized by the White Gloves (Baltosios pirštinės), a citizens’ initiative launched during the 2012 parliamentary elections. Then, around 700 observers were mobilized with the aim to prevent potential violations. The organization observes elections to this day, successfully engaging thousands of volunteers.¹²⁵ The White Gloves collects information

118 Previously, citizen observers were not explicitly mentioned in the law, but their participation was covered and possible under more general provisions. On the circumstances of adopting the 2018 provisions, see V. G. Chacón, [Comparative Study of European Electoral Legislation in Connection with Non-Partisan Domestic Observation](#), pp. 23-24.

119 [Explanatory Statement on draft laws XIIIIP-1680](#), Point 1.

120 Ibid.. The mission recommended to “explicitly provide for the access of citizen observers to all stages of the electoral process and clearly define rights and obligations of all observers, as well as criteria for their accreditation” ([Final Report of the OSCE/ODIHR mission to the 2016 parliamentary elections](#), p. 18).

121 Citizen observers have a wide range of powers. The [Law on Parliamentary Elections](#) provides that they can notify precinct commissions about the alleged violation, with the aim of corrective action. They can express remarks, appeal decisions, and submit complaints and written protests that must be attached to the counting protocol and examined. They even have the right to ask for a recount, and the precinct commission must satisfy such a request before signing the protocol. However, even with all these powers, their accreditation may be annulled in the event of a breach of the “Constitution or laws”.

122 Ibid., Art. 61.2(2).

123 Ibid., Art. 61.4(1). Observers can also be accredited by constituency commissions. The CEC was tasked to establish the accreditation procedure and in 2020 adopted the latest decision in this regard, the [Decision on Approval of the Description of the Procedure for Registration of Election \(Referendum\) Observers](#).

124 See the [Law on Parliamentary Elections](#), Art. 61.8. The ODIHR Election Expert Team to the 2020 parliamentary elections noted in its [Final Report](#) that “CEC meetings were open to observers” (p. 6).

125 For more about the history of the White Gloves, see their [website](#).

about infringements, analyses and discloses them, cooperates with the CEC and the police, educates voters, and conducts advocacy activities.¹²⁶

The provisions on observers are also actively used by the Lithuanian Disability Forum (LDF), which monitors the accessibility of elections for voters with disabilities.¹²⁷ In 2018, it assessed access to polling stations in the Vilnius municipality.¹²⁸ In 2019, for the presidential election, LDF accredited 24 observers and acted much more comprehensively. It then monitored the accessibility of voting procedures and informational materials for voters with motor, visual, hearing and intellectual disabilities, including in social care institutions and prisons.¹²⁹ A year later, using this experience, LDF published guidelines on “organizing elections that are accessible for all”.¹³⁰ LDF closely cooperated with the CEC and conducted joint training for precinct commissions, raising awareness of the electoral rights of people with disabilities.¹³¹ The organization continued these activities and monitored the 2020 parliamentary elections, involving an even larger group of observers.¹³²

Both the White Gloves and LDF provide examples of how civil society can contribute to the integrity of elections when the status, rights, and obligations of citizen observers are provided for by the law. As the case of LDF shows, citizen observation of elections can contribute to a broader goal of changing the perception of disability and improving the quality of services provided to citizens.

Poland

The status and provisions for non-partisan citizen observers were introduced in 2018 by more broadly applying the existing provisions on party observers.¹³³ Observers were granted the right to be present “during all activities” of the observed commission, not just those conducted on the election day.¹³⁴ However, in contrast to party and international observers, this does not apply to the

126 Their activities are also described in the EC commissioned [Study on the Conduct of the 2014 Elections to the European Parliament](#), p. 42.

127 The first activities were carried out already in 2012.

128 [Analysis of the Physical Accessibility of Vilnius City Municipality Electoral Precincts for Persons with Physical Disabilities](#), LDF and Lithuanian Association of People with Disabilities, Vilnius, 2018.

129 [The LDF Monitoring Team Checks the Availability of the Election Process](#), LDF, May 2019. For more on this, see the Human Rights Monitoring Institute report on [Human Rights in Lithuania 2018-2019](#), p. 64.

130 [The Right to Vote for People with Disabilities. Tips for Organizing Elections that are Accessible to All](#), LDF, Vilnius, 2020.

131 [The LDF Contributes to the Training of Election Organizers](#), LDF, Sept. 2020.

132 More on LDF achievements can be read in [More Space for People with Disabilities in the Upcoming Seimas Elections](#), LDF, Oct. 2020.

133 Art 103c § 2 of the [Election Code](#) states that “provisions of the Code related to party observers shall apply accordingly to citizen observers”.

134 *Ibid.*, Art. 103b § 1, Point 1.

sessions of the National Election Commission (NEC), as the Election Code lists the commissions to which citizen observers may be delegated, and the NEC is not among them.¹³⁵

The right to appoint observers is granted to associations and foundations which, per founding documents, care for democracy, civil rights, and the development of civil society.¹³⁶ These organizations must themselves issue credentials attesting the status of each observer.¹³⁷ Credentials are valid for only one specified commission and each organization can only have one observer per commission at a time. Thus, observer organizations practice issuing multiple authorizations to a single observer to enable monitoring of the voting day at multiple precinct election commissions (PECs).

Observers may photograph and videotape the work of PECs, but this is restricted to the period before and after the voting and does not apply to commissions established outside of the country. Citizen observers are not mentioned in connection with the right to complain against the work of an election commission. However, more general provisions that allow complaints with a superior electoral body can be used.¹³⁸ Furthermore, access to campaign finance documentation is provided, which competitors must submit in full to the NEC.¹³⁹ Associations and foundations are entitled to submit reasoned objections to the financial statements, and the responsible electoral body is obliged to answer them.¹⁴⁰

Citizen election observation in Poland has a long history, dating back to the 1980s.¹⁴¹ With the adoption of provisions on citizen observers, new organizations involved in this activity emerged. Since 2018, countrywide election day observations were conducted by the Political Accountability Foundation (PAF), the Batory Foundation,¹⁴² Civic Election Control, Election Observatory (OW),

135 There are two further limitations: (1) the right to submit remarks to the protocol, indicating specific objections, is reserved for party observers, and (2) the right to be present during protocol transport and handover to a superior commission is reserved for party and international observers. More detailed regulations and explanations are included in the NEC decisions. See, for example, [NEC guidelines for precinct commissions](#) adopted for the 2020 presidential election, in particular Points 3-17.

136 It is required that the founding document contain at least one of these purposes.

137 It must have the content specified in the 2018 NEC [decision on the template of certificate for a citizen observer](#).

138 For instance, the tasks of the district commission include examining complaints about the activity of the precinct commissions (Election Code Art. 172 § 1, Point 5).

139 More precisely, the documentation must be submitted to the NEC or, depending on the type of election or competitor, to its territorial plenipotentiary.

140 More precisely, this applies to associations and foundations which, in their statutes, provide for activities related to the analysis of election campaign finance (Election Code Art. 144 § 7-8).

141 The pro-democratic opposition, operating in conspiracy, observed the turnout, i.e. the number of people entering stations and compared it with the official data.

142 Acting together with the Committee for the Defence of Democracy, Campaign Against Homophobia, Action Democracy, and Watchdog Poland observed the first round of the 2018 local elections. Their report is available [here](#).

and Election Control Movement.¹⁴³ A number of organizations have engaged in more specialized and long-term election monitoring, such as monitoring social and traditional media, the use of hate speech against migrants and refugees, disinformation, microtargeting, and complaints resolution.¹⁴⁴

The PAF, based on its experience from the 2020 presidential election, proposed changes to the provisions on citizen observers. It recommended allowing observers to record the work of precinct commissions located abroad and to grant them the right to submit complaints about the validity of elections.¹⁴⁵ It remains to be seen whether these recommendations will be adopted. What is clear already is that citizen election observation in Poland will continue its development with new initiatives and the maturing expertise of the already involved organizations.

Romania

Legislation specifies the status, rights and obligations of citizen observers. However, in the absence of a uniform electoral code, the laws differ in terms of accreditation procedures¹⁴⁶ and consistently provide only for the presence

143 [Political Accountability Foundation](#) (Fundacja Odpowiedzialna Polityka, PAF), [Batory Foundation](#) (Fundacja im. Stefana Batorego), [Civic Election Control](#) (Obywatelska Kontrola Wyborów), [The Election Observatory](#) (Obserwatorium Wyborcze, OW), [Election Control Movement](#) (Ruch Kontroli Wyborów).

144 The FOP in its [report on the 2020 presidential election](#) covered various aspects, including those typical to long-term monitoring. The organization also monitors [social media](#) and has developed a methodology for remote [video observation](#). The OW in its [reports](#) regularly presents the results of public television monitoring. The Batory Foundation monitored the [main news programme of public television during the 2019 EP elections](#). Long-term monitoring was conducted by the Helsinki Foundation for Human Rights, covering [migrants, refugees and xenophobia during the 2018 local elections, complaints challenging election results during the 2018 local and 2019 EP elections and fake news and disinformation during the 2019 elections](#). The Panoptykon Foundation, together with partner organizations, monitored [microtargeting in social media during the 2019 elections](#).

145 Political Accountability Foundation [report on the 2020 presidential election](#), p. 9.

146 For parliamentary and presidential elections the procedure is managed by the Permanent Electoral Authority (PEA), which accredits organizations that themselves issue credentials to their observers. For the EP and local elections, the PEA accredits organizations which must then accredit each observer with the relevant county election bureau. In practice, this limits the mobility of observers and creates a significant administrative burden. Moreover, these bureaus may publish lists of those accredited with their names and identification numbers, which may be contrary to the EU General Data Protection Regulation.

of observers at polling stations during the election day.¹⁴⁷ Access is further restricted by the “non-public nature of election administration sessions”.¹⁴⁸ Revising these provisions remains the subject of long-standing recommendations by both international and citizen observers.¹⁴⁹

There is a practice of countrywide observation, dating back to the early nineties. Distinctive was the activity of the Pro Democracy Association, which deployed thousands of observers and pioneered campaign finance monitoring during the 2000 elections.¹⁵⁰ More recently, large, long-term observations have been conducted by the FiecareVot, a coalition of organizations that covers a broad range of aspects, including campaign finance.¹⁵¹ This last area has become the subject of particular attention and expertise for Expert Forum.¹⁵²

Campaign finance monitoring is a long-term endeavor, as the essential aspects precede the election period and more comprehensive data becomes available only long after the election. Furthermore, campaign finance should be considered jointly with political party finance, and along with the analysis of the capacity and functioning of oversight bodies. Expert Forum monitors and analyses both party and campaign finance, and the related disclosure mechanism and institutional supervision.¹⁵³

147 The [Law on the Election of the Senate and the Chamber of Deputies](#) in Art. 90(1) stipulates that observers “can attend the electoral operations on the day of the vote, starting with 6.00 hours and finishing with the drawing up and signing [...] of the minutes ascertaining the result”. There is also Art. 91, relating specifically to the counting of votes at a polling station. Moreover, in the paragraph on allotting the mandates, it is stated that “accredited persons are entitled to attend the works of the constituency electoral bureau” (Art. 94(4)). The [Law on the Election of the President](#) in Art. 47(2) refers to the above-mentioned law and specifies presence during the proceedings at a precinct commission. Interestingly, the [Law on the Organisation and Conduct of the Elections to the EP](#), pursuant to Art. 73(11), permits access to the “county electoral bureau, the Bucharest Municipality district bureau”, while the [Law for the Election of Local Public Administration Authorities](#) to “activities of the constituency electoral bureau” for “persons accredited for this purpose” (Art. 98(4)). As an exception can be mentioned the [Law regarding voting by mail](#), which provides that all postal voting “operations carried out by the polling station may be attended, in addition to their auxiliary technical staff, by persons accredited in accordance with the law” (Law no. 288/2015, Art. 19).

148 [Final Report of the ODIHR Special Election Assessment Mission to the 2020 parliamentary elections](#), p. 17. The FiecareVot [Final Report on the 2020 parliamentary elections](#) states that the meetings of the election commissions are not public, and that the Central Election Bureau replied the same regarding access to minutes (p. 13).

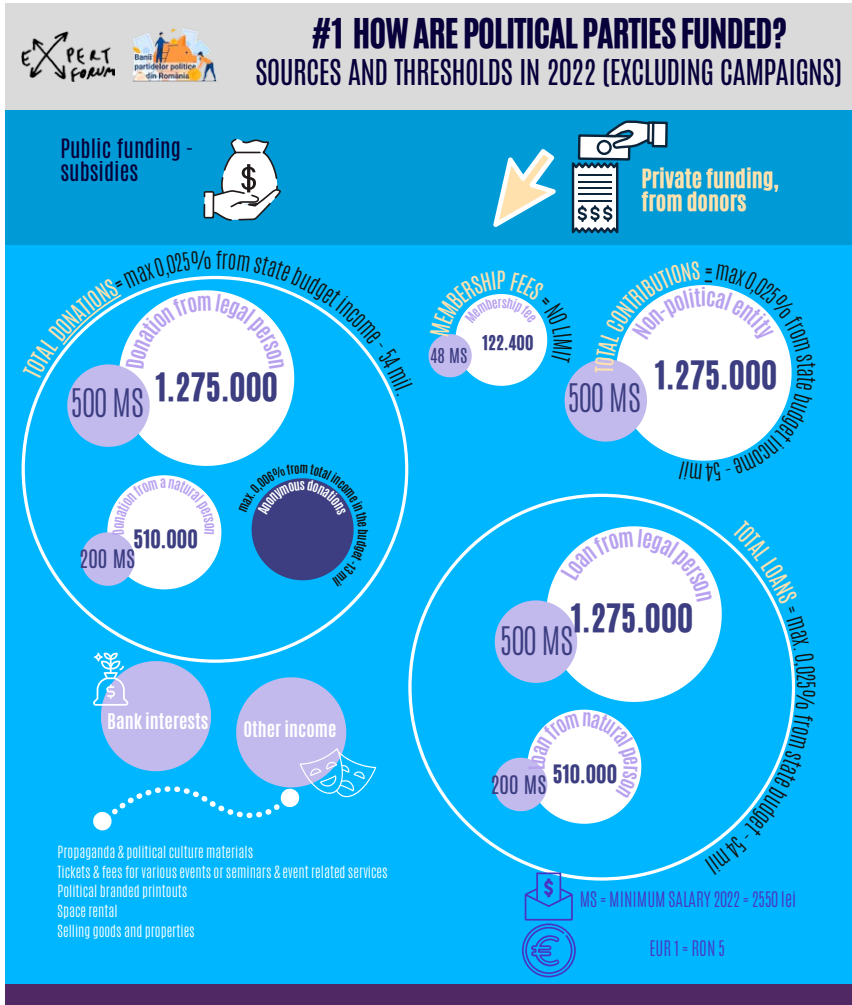
149 Most recently, the ODIHR mission to the 2020 parliamentary elections recommended “explicit provisions on the right of observers to access all stages of the electoral process” and that “sessions of the election bureaus should be open to the public, media and election observers” ([Final Report](#), pp. 18 and 7).

150 [Monitoring Election Campaign Finance. A Handbook for NGOs](#), OSI, 2005, pp. 6, 67; and [Handbook for Domestic Election Observers](#), ODIHR, 2005, p. 81.

151 See for example the FiecareVot [Final Report on the 2020 parliamentary elections](#).

152 The [Expert Forum](#), a member organization of FiecareVot, is a renowned think tank specializing in public policy and public governance reform.

153 See, for example, the Expert Forum report on [Finance of Political Parties in 2021](#).



Example of Expert Forum’s analytical and educational material concerning party and campaign finance in Romania.

The method used is largely based on the analysis of data declared by parties or contestants and published by the Permanent Electoral Authority,¹⁵⁴ but also data obtained through the use of the Freedom of Information Act. The organization constantly advocates for greater transparency and disclosure of financial data.¹⁵⁵ To this end, Expert Forum has established a portal where it collects data on budgetary subsidies, party and campaign donations, and expenditures for the past 10 years.¹⁵⁶ The portal not only makes this data more accessible, but also provides information with a more long-term perspective, on changes and trends within the political system.¹⁵⁷

The Expert Forum also monitors the implementation of electoral recommendations. In doing so, it confirms that election observation is not an end in itself. Rather, it is an opportunity for advocacy, aimed at addressing the identified shortcomings. Thus, a searchable database was developed with recommendations offered by various organizations.¹⁵⁸ The implementation status is indicated for each of them, with a brief explanation where necessary.¹⁵⁹ Certainly, such a database is an excellent reference point and tool for monitoring the progress of reforms.¹⁶⁰

Slovakia

Several civil society initiatives were established prior to the 1998 parliamentary elections in Slovakia. Two of them, Civic Eye (Občianske Oko) and MEMO 98 focused on observation of the elections, with Oko doing election day observation and MEMO 98 conducting specialized election-focused media monitoring. At that time, there were no explicit provisions for citizen observers and their presence during the counting depended on the “permission” of the CEC.¹⁶¹

154 Mostly on the dedicated website of the [Department for the Control of the Financing of Political Parties and Electoral Campaigns](#).

155 For example, it recently submitted [proposals of commitments for the 2022-2024 Action Plan](#) under the Open Government Partnership.

156 Money of Political Parties (Bani Partidelor) portal is available [here](#).

157 Under the [Methodology](#) tab, the given purpose for this portal is “to provide an analytical perspective on how political funding has evolved and to bring together as much data on private contributions or public funds as possible. It is also a tool that wants to support journalists or anyone interested in the subject”.

158 The [database](#) contains 475 recommendations, mostly offered by FiecareVot, Expert Forum, ODIHR, and Council of Europe’s Group of States against Corruption.

159 The following statuses are in use: implemented, partially implemented, not implemented, no longer valid, and one that cannot be evaluated.

160 Many of the recommendations focus on the areas discussed in this case study: 25 relate to election observation, 113 were allocated into the category of “party and campaign finance”. The vast majority have been marked as “not implemented”, indicating the need for electoral reforms.

161 1990 Act on Election of the National Council, Art. 32.

Civic Eye, whose requests for accreditation were rejected, challenged this in the Constitutional Court.¹⁶² The Court ruled that lawful limitations on the freedom of expression and information do not apply in this situation and that the CEC should justify its refusal.¹⁶³ Subsequently, the 2004 Act on Election to the National Council entitled “anyone who has expressed interest” to be present during voting and counting.¹⁶⁴ This still did not envisage the status of non-partisan observers or contain explicit provisions regarding their rights and obligations.¹⁶⁵ Remedying this remains the subject of long-standing recommendations.¹⁶⁶

While the large-scale election-day observation is no longer practiced in Slovakia, monitoring media prior to elections remains to be highly relevant. This goes along with a growing understanding that making informed choices is essential to democratic elections. MEMO 98 has started as an election-focused media monitoring organization, concentrated on assessing the media situation in the context of elections,¹⁶⁷ and has gradually established itself as a highly specialized, leading institution in this field. The organization continuously offers its expertise to civil society groups, media, and election regulators. To this day, MEMO 98 experts have participated in some 150 media and election related projects in more than 60 countries.¹⁶⁸

MEMO 98 has been trying to develop a more comprehensive approach to monitoring the changed information environment, taking into account activities of social media platforms. In 2019, during the EP elections, it monitored Facebook accounts of major political parties in four EU states.¹⁶⁹ The main objective was to evaluate the role of Facebook and its potential impact on electoral integrity. The same year, in collaboration with Democracy Reporting International (DRI), MEMO 98 worked on a toolkit for monitoring social media,¹⁷⁰ which has been applied and tested during the 2019-2020 elections in five EU states.¹⁷¹

162 Detailed description is available in the [1998 Parliamentary Election Law of the Slovak Republic: Amendments in Controversy](#), IFES, 1999, pp. 20-22.

163 *Ibid.*, p. 22. See also the Constitutional Court judgement no. [II. ÚS 10/99](#).

164 2004 [Act on Election to the National Council](#), Art. 31(3). For the tabulation procedure, presence is allowed to “anyone so permitted by the district electoral commission” (*ibid.*, Art. 40).

165 These provisions were repeated in the 2014 [Act on Conditions for the Exercise of the Right to Vote and on the Amendments to Certain Acts](#), Arts. 27(3) and 64. This Act applies to all types of elections.

166 Recently reiterated in the [Final Report of the ODIHR Election Assessment Mission to the 2020 parliamentary elections](#), pp. 14-15.

167 Using the methodology of quantitative and qualitative analysis of the news coverage.

168 Often through its experts, involved in OSCE, EU, and other electoral missions.

169 See the MEMO 98 report from [Monitoring and Analysis of Posts by Key Political Parties on Facebook during the 2019 EP elections](#).

170 See the DRI [Toolkit to Monitor Social Media](#). Earlier, DRI worked jointly with other experts on a Guide for Civil Society on Monitoring Social Media During Elections.

171 For findings and conclusions see the DRI report [Lessons Learned: Social Media Monitoring During Elections. Case Studies from Five EU Elections 2019-2020](#).

Another toolkit was prepared by the director of MEMO 98 in cooperation with the Council of Europe.¹⁷² The organization drew on these experiences while monitoring the 2020 parliamentary elections in Slovakia¹⁷³ and in a number of other countries, including the coverage of online media and Facebook pages.

As a result, over the past few years, MEMO 98 has expanded its expertise to include social media monitoring, but has also made a significant contribution to developing an up-to-date monitoring methodology and making it available to monitors in Europe and beyond.

Sweden

The legislation does not mention citizen observers. However, both the voting and counting procedures are public and anyone can observe them. The 2005 Elections Act provides that “counting of votes is public”.¹⁷⁴ The same was provided for voting in the 1997 Elections Act, but was not transferred to the new law. Apparently, this was deemed redundant, as “it is in the nature of things that voting in polling stations is always public. No special provision on this is therefore required”.¹⁷⁵ This public nature of voting and counting is stressed on the Election Authority website, which lists the procedures to which it applies.¹⁷⁶

These provisions have been tested in practice by the Swedish International Liberal Centre (SILC), a civil society organization and member of EPDE. SILC organized election day observation in 2014, 2018, and 2022.¹⁷⁷ The latter was conducted in coalition with other election observers in Sweden under the newly founded Election Observation Association of Sweden (VOS).¹⁷⁸ Among the objectives was to inform the authorities and the public about possible shortcomings in the electoral system, and to propose remedial measures.¹⁷⁹

Based on the assessments made by SILC observers, it can be concluded that it would be helpful to better inform about the role of citizen observers, their

172 [Toolkit for Civil Society Organisations on Monitoring of Media Coverage of Elections](#), R. Kužel, Council of Europe, 2020. It is noteworthy that recently, in 2022, UNESCO published a comprehensive guide on [Elections in Digital Times](#) with R. Krimmer, A. Rabitsch, R. Kužel, M. Achler and N. Licht as contributing authors.

173 MEMO 98 report on [Media Coverage of the 2020 Slovak Elections](#). These elections were also monitored by GLOBSEC, which published the analytical report [Slovak Parliamentary Election 2020: Liberalism as a threat, Facebook as a battlefield](#).

174 [Elections Act](#), Sec. 1 in Ch. 11, but also in Chs. 12 and 13, where it is stated that “this meeting is public” and that the proceedings for the final counting of votes “shall be public”.

175 [Legal comment to the draft of the 2005 Elections Act](#), pp. 127-128. Findings made and published by V. G. Chacón in [Comparative Study of the European Electoral Legislation in Connection with Non-Partisan Domestic Observation](#), Observadors per la Democràcia, 2019, pp. 16-17.

176 See the Election Authority [website](#).

177 These missions consisted of observers from Sweden and partner organizations from other states.

178 See the VOS [website](#).

179 [SILC report on the 2014 EP elections](#), p. 2.

rights, and related restrictions.¹⁸⁰ The 2014 parliamentary elections report specified that “it would be of help for election officers to have some basic guidelines on what is allowed and not in terms of election observing”.¹⁸¹ The report on the 2014 EP elections suggests for either “new provisions in the electoral law” or “clear information from the electoral authority”.¹⁸²

The ODIHR electoral mission to the 2018 general elections, which also assessed these provisions, recommended to amend the legislation and “explicitly provide for the presence of observers”.¹⁸³ The postulate of formalizing the status of observers found its way to the Election Authority report on the experiences from the 2018 elections. The Authority proposed to supplement the Elections Act with provisions on election observation and accreditation procedure.¹⁸⁴ This was repeated in the report on the experiences from the 2019 EP elections.¹⁸⁵ These proposals, however, were not considered necessary and, as a consequence, were not included in the 2022 amendment.¹⁸⁶

Nevertheless, the government discussed the findings and assessments made by SILC observers regarding the family voting.¹⁸⁷ They were used to discuss and justify the presented positions and to search for the most appropriate approach to this practice.¹⁸⁸ This is an example of how citizen observers, including election day observers in established democracies, can contribute to tangible results.

180 Ibid., p. 4.

181 SILC [report on the 2014 parliamentary elections](#), p. 5.

182 [SILC report on the 2014 EP elections](#), p. 3.

183 [Final Report of the ODIHR Election Expert Team to the 2018 general elections in Sweden](#), p. 3.

184 Election Authority report on the [Experiences from the 2018 elections](#), p. 36.

185 Election Authority report on the [Experiences from the 2019 EP elections](#), p. 32.

186 The 2021 draft law on [Enhanced protection for voters at the polls](#) together with extensive analyses and discussions on the proposed changes.

187 Along with the findings made by the Democracy Volunteers, a citizen organization from the UK that deployed its mission to the 2018 general elections. The Final Report of this mission can be read [here](#).

188 See the analyses and discussions in the 2021 draft law on [Enhanced protection for voters at the polls](#), pp. 44-46, 49-50.

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About the project “European voters – together for electoral integrity”

Established democracies in the European Union face unprecedented threats and election processes in some EU Member States fail to meet several international standards and national norms. In order to address these issues, citizen election observer organizations from seven EU member states have come together in a multi-country project “European voters - together for electoral integrity” to identify common challenges to electoral processes across Europe and to advocate for electoral reforms where necessary. Several of these organizations are also members of the EPDE.

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Unhack Democracy (Hungary)



The European Platform for Democratic Elections (EPDE) aims to support citizen election observation and to contribute to democratic election processes throughout Europe. EPDE improves the professional quality of its member organizations through peer-learning, tailored training and expert missions, and informs internationally about the findings of its member organizations.

EPDE encourages, trains and supports experts and citizens who stand up for transparent and equal suffrage wherever it is at risk in Europe – be it in the European Union’s Member States, the Eastern Partnership countries, or the Russian Federation.

EPDE is a signatory of the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations and the Code of Conduct for Nonpartisan Election Observation. EPDE also is a member of the Global Network of Domestic Election Monitors (GNDEM).