

“OSCE/ODIHR Election Observation and its Relation to the Participation of National Minorities in Elections”

Dr. Beata Martin-Rozumilowicz, Head of OSCE/ ODIHR Election Department

On the occasion of the ACEEEO’s 21st annual conference on the 'Participation of Vulnerable Groups in Election Processes: Minorities and Persons with Disabilities'

13 – 15 September 2012, Sarajevo, Bosnia and Herzegovina

Honourable Chairpersons and Members of Election Commissions,
Distinguished Guests,
Ladies and Gentlemen,

Good afternoon. I am pleased to address you today, especially on the important topic that you have chosen for the 21st annual conference of the Association of European Election Officials (ACEEEO). The Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE) has a long-standing collaboration with your organization. In our work we also strive to promote the “*Participation of national minorities and the participation of persons with disabilities in the election process*”.

OSCE’s work related to national minorities is multifaceted. The OSCE High Commissioner on National Minorities can provide early warning on potential conflicts, as well as advice on how to address tensions with appropriate policies and legislation in order to prevent such conflicts; ODIHR observes the degree to which national minorities participate in elections and provides recommendations on how to overcome obstacles that may prevent them from doing so.

I would like to elaborate in more detail on how the ODIHR observes Participation of National Minorities in Elections. In 2001, our office published, in close co-operation with the Office of the OSCE High Commissioner on National Minorities (HCNM) *Guidelines to Assist National Minority Participation in Electoral Processes*. These Guidelines are currently being updated and ODIHR plans to publish a handbook on “*Observing and Promoting the Participation of National Minorities in Electoral Processes*”, again in close co-operation with the HCNM.

The OSCE’s politically binding commitments, together with the UN and CoE’s legally binding standards, provide ODIHR with the reference framework for minority-related issues in general human rights and democratization work, including with regards to elections and election observation but also in the areas of tolerance and non-discrimination, gender equality and freedom of assembly and association.

In addition to the international standards noted above, including the ICCPR, the ICERD (International Convention on the Elimination of All Forms of Racial Discrimination), the

European Convention for the Protection of Human Rights and Fundamental Freedoms and the Framework Convention for the Protection of National Minorities, the OSCE/ODIHR in its election observation work refers to the 1990 Copenhagen Document, the 1992 Helsinki Document and the *Recommendations on the Effective Participation of Minorities in Public Life* (the Lund Recommendations) endorsed by the HCNM in 1999. In paragraph 35 of the Copenhagen Document, participating States agreed “to respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities.” The Lund Recommendations emphasize the freedom to establish political parties based on communal identities and promulgate electoral systems that facilitate minority representation and influence.

A developed catalogue of good practices supporting the Lund Recommendations further emphasizes the protection of national minorities under constitutional law, the favourable drawing of electoral-district boundaries, the introduction of lower electoral thresholds and reserved seats, the protection of numerically small minorities, facilitation of the granting of citizenship and protection of the rights of non-citizens, , representation resulting in real influence in elected bodies,.

Ladies and Gentlemen,

I would like to outline in more detail how an ODIHR election observation mission (EOM) assesses the extent to which an election process meets OSCE commitments and international standards, including with respect to the participation of national minorities. In countries where national minority issues are particularly salient, ODIHR assigns a dedicated national minority analyst to the mission or the HCNM designates a staff member to join the mission.

The fundamental principles of universal and equal suffrage underline the obligation of states to ensure effective participation of national minorities in elections, both as voters and as candidates. For an election to meet OSCE commitments and international standards, opportunities must therefore be provided to facilitate national minority participation.

Recognizing the importance of this issue in terms of democratic elections, ODIHR has integrated the assessment of national minority participation into its overall election observation methodology. Each EOM should take full account of how an election process affects national minorities and whether and how their representation and participation in the election were facilitated. Since ODIHR views elections as a long-term process rather than a one-day event, EOMs consider issues related to national minority participation during the pre-election and post-election periods, as well as on Election Day.

Ladies and Gentlemen,

Having said that, the issue of national minority participation in the electoral processes of OSCE participating States is not a technical facet of the political process but rather, at times, a complicated aspect with various cultural, national and socio-political questions attached.

In several OSCE participating States representatives of national minorities face difficulties to maintain and develop their identities, including a lack of official recognition as a minority group, economic and political marginalization, discrimination or even at times radical nationalism and xenophobia.

Commonly the right to vote is granted by a country's constitution to its citizens. However, this may constitute a human-rights problem if citizenship legislation is restrictive. It can be a source of conflict with respect to States that have national minorities or large populations composed of non-citizens if the restrictions on citizenship are framed in a manner that discriminates against national minorities. Such restrictions may take different forms, e.g., by making it administratively difficult or financially burdensome for members of a national minority to become citizens.

In some participating States, the design of electoral constituencies may have a discriminatory effect on the rights of national minorities. The choice of an electoral system is considered to be a sovereign decision of each state. However, the delimitation of electoral constituency boundaries and the method for the distribution of mandates can have an effect on representation of minorities. Universal and equal suffrage and the commitment to "respect the right of persons belonging to national minorities to effective participation in public affairs" carry the obligation to facilitate the equitable representation of minorities as well as to refrain from measures that could adversely affect this, including by drawing the boundaries of electoral districts. This could occur for example by altering the proportions of the population in areas inhabited by national minorities, or by other, more violent means, like expropriation, evictions, and expulsions.

In some elections observed, due to poor transcription of names of members of a national minority into Cyrillic script, it has been very difficult to find names of voters in the voter lists. This highlights the importance of accuracy and inclusiveness of the voter register and ensuring that members of national minorities are registered to vote.

It is also important that adequate information in minority languages is available to national minority communities on the electoral process, including on voter registration as well as voting materials being available in minority languages, which is beholden on States to provide to their citizens. While the UN Human Rights Committee (Comment 25, para 12) emphasized its importance, in many participating States too little effort is undertaken to provide electoral materials like ballot papers and voting instructions in minority languages resulting in poor understanding and possible invalid votes.

Further, the media have a responsibility to provide access to national minorities to promote pluralism and tolerance and to overcome discrimination and racism. During an election, media outlets should therefore provide equal access to minority candidates and political parties as well as other candidates and parties. They could also cover issues of interest to national minorities. Public media have a particular responsibility in elections by allowing for a plurality of views in their programmes without preference to any political party or group. Private media should also not discriminate against any candidates or parties on the basis that they represent national minorities. No media should portray national minority representatives and issues with stereotypes that may negatively affect their credibility and importance to voters. The ODIHR

election observation missions include special media monitoring units which look into the role of media in elections, also with regards to their coverage of national minority candidates and issues related to national minorities.

The OSCE also pays particular attention to Roma and Sinti issues, including during election processes. Across many OSCE participating States there are problems with ensuring the effective participation of Roma communities in public and political life, including during elections. Often marginalized and poverty prone representatives of national minorities are particularly susceptible to vote buying and family voting.

ODIHR election observation missions have over the years found difficulties for representatives of national minorities to register as candidates, obstacles to voter registration, lack of identification documents, lack of representation of national minorities in election commissions; and at times a low level of confidence in the impartiality of the election administration. In their final observation mission report, recommendations are included how States can address these issues and improve the participation of national minorities in the election process.

Ladies and Gentlemen,

Please let me summarize that for the greater participation of national minorities and for them to achieve a higher degree of representation, human rights, including the rights of those belonging to national minorities need to be upheld and guarded by election management bodies, legislators and political decision makers at all levels. It requires an inclusive and comprehensive approach to support the efforts of governments, political parties and civil-society groups, including those representing national minorities, to promote effective participation of people belonging to national minorities in public life, and in elections in particular. ODIHR contributes to this through its election observation activities.

The effective participation of individuals belonging to national minorities in public life is essential for the development of a democratic society that respects human rights, ensures social cohesion, and prevents violent conflicts. The development of such societies is an objective that has been recognized by the OSCE, as well as by other international organizations.

Let me conclude by thanking the organizers for drawing our attention on this important subject and for the possibility of ODIHR to outline its efforts to promote the rights and participation of national minorities in the electoral context.

Thank you for your kind attention.