

# ODIHR Election Observation under Pressure

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## Abstract

Although ODIHR is a global leader in international election observation, for twenty years it has sustained challenges from participating States that have sought to weaken the independence of its election observation missions. This paper outlines the nature of these challenges and documents how ODIHR has responded by adapting to some requests and holding the line against others. The result is a story of resilience and continued vitality against difficult odds. Parallel to these challenges from within, however, the paper documents the rise of alternative “shadow” election monitoring entities that counter ODIHR’s electoral assessments with judgments that seek to validate undemocratic elections. ODIHR’s continued relevance and status as Europe’s primary election observation organization depends on vigilantly guarding its credibility while seeking ways to ensure that its messages cut through an increasingly fragmented media space.

## Keywords

Election observation, ODIHR, democracy promotion, institutional adaptation

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## Introduction

In 1990, members of the CSCE expressed their commitment to free and fair elections by approving the Copenhagen Document.<sup>1</sup> This path-breaking agreement contained detailed standards for democratic elections that went beyond the mere commitments found in other legal instruments like the Interna-

tional Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR). The Copenhagen Document specified standards not only for voting but also for the political, legal, and administrative context in which elections are held, including respecting the freedom to form political parties and to campaign without government intimidation and with equal access to the media.<sup>2</sup> The document also required all participating States to extend a standing invitation to CSCE (later OSCE) missions to observe national elections.

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The institutional basis for election observation was further laid by the Charter of Paris (1990), which established the Office for Free Elections headquartered in Warsaw, and the Moscow Document (1991), which affirmed that matters relating to the human dimension are of “legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.”<sup>3</sup> Over the next decade, monumental changes would take place in the region as the states of East Central Europe and the former Soviet Union transitioned away from communism. The CSCE/OSCE underwent its own transformation, bolstered by a strengthened commitment to democracy and human rights. In 1992, the Office for Free Elections was expanded, granted further responsibilities, and rechristened the Office for Democratic Institutions and Human Rights (ODIHR).<sup>4</sup>

ODIHR’s mandate is to support participating States in implementing their human dimension commitments, and election observation has been one of its primary activities from the start. ODIHR’s election observation methodology is globally renowned and characterized by a holistic focus that covers the entire electoral process. This methodology developed over several years, through an iterative process of ODIHR staff initiatives and participating State (Ministerial Council) decisions. Attesting to its global status and expertise, ODIHR has actively participated in developing and implementing the Declaration of Principles for International Election Observation and Code of Conduct for Interna-

tional Election Observers (2005).<sup>5</sup> The EU has aligned its own election observation methodology with that of ODIHR, and for this reason EU missions are not sent to OSCE participating States.<sup>6</sup> ODIHR is therefore the primary international election observation body in the OSCE area.

Throughout the 1990s, demand for ODIHR election observation missions (EOMs) was high, particularly among former communist states. But as tensions between Russia and the EU/United States grew in the wake of the color revolutions in the early 2000s, ODIHR election observation faced intense challenges, often led by Russia and like-minded states. The following provides an overview of these pressures, which were both *internal* (pressures to reform and curtail election observation from within) and *external* (the creation of parallel election monitoring organizations). In addition, it explores how ODIHR has adapted to internal pressures by expanding the scope and inclusiveness of its work without—crucially—losing its autonomy or the credibility of its methodology. My analysis of these processes is informed by interviews with current<sup>7</sup> and former ODIHR officials.

The picture that emerges is one of ingenuity and resilience in the face of sustained political pressures, an example of what Gisela Hirschmann calls a strategy of “adaptation.”<sup>8</sup> This outcome was far from assured; international organizations facing drastic changes in member state politics often either dissolve or slide into “zombie” status.<sup>9</sup> Viewed in this light, the survival of ODIHR election observation, with the credibility of its methodology intact, is noteworthy. Time will tell

whether ODIHR will weather the unprecedented crisis and paralysis that have gripped the OSCE since Russia's invasion of Ukraine in 2022.<sup>10</sup>

The story of ODIHR election observation is also one of an organization whose *de facto* influence among domestic publics continues to be challenged in an era of disinformation and “alternative facts.” I outline the proliferation of shadow observer groups, particularly in the post-Soviet region, and the stark difference between these groups' electoral statements and ODIHR's. As a result, ODIHR's assessments of electoral quality may matter less when consumers of non-Western news primarily read about the rosy conclusions of less credible observers. Shoring up its relevance and informational reach should therefore be a key focus of the Office going forward.

### Internal challenges to ODIHR

In the wake of the Cold War, Russia had hoped that the OSCE would become the continent's premier security organization.<sup>11</sup> But as former communist states sought membership in NATO and the EU, it became clear that instead of transferring authority to the OSCE, these two organizations would extend their own reach. Russia lamented the withering of the OSCE's politico-military dimension in favor of the human dimension of security, which it viewed as less important.<sup>12</sup> Vladimir Putin's rise to power, followed by the electoral revolutions in Georgia (2003) and Ukraine (2004), cemented Russia's resolve to assertively

combat what it perceived as growing Western interference on its turf.<sup>13</sup> Putin was also offended by ODIHR's criticism of Russia's 2004 parliamentary election,<sup>14</sup> an issue that would persist in future elections as Russia sought to place limits on the number of ODIHR observers.

In 2004–2005, Russia launched a diplomatic assault against ODIHR, whose EOMs were perceived as playing a role in the pro-Western electoral revolutions.<sup>15</sup> In 2004, with the support of most Commonwealth of Independent States (CIS) partners, Russia issued an appeal to modify the OSCE's human dimension, specifically the practice of election observation.<sup>16</sup> At the 2005 ministerial council in Ljubljana, Russian foreign minister Sergei Lavrov decried ODIHR as a biased entity, an instrument for meddling in non-EU countries. The theme that ODIHR's activities were biased against countries “east of Vienna” became a frequent talking point for Russia and its allies.<sup>17</sup> In 2005, Russia vetoed the OSCE budget due to disagreements over election observation<sup>18</sup> and blocked the final statement in the Ministerial Council.<sup>19</sup>

Russia made three criticisms, as summarized in the 2004 “Astana Appeal” of the CIS:<sup>20</sup> first, that the geographic scope of ODIHR's election observation was imbalanced (tilting toward states east of Vienna); second, that ODIHR observers hailed disproportionately from Western Europe and North America; and third, that ODIHR's methodology had not been approved by participating States (a misleading claim given the numerous Council decisions affirming support) and that intergovernmental oversight mech-

anisms were too weak.<sup>21</sup> Russia wanted to make the publication of ODIHR's election observation reports contingent on the approval of the Permanent Council—an intergovernmental body that operates by consensus—which would effectively give it veto power.<sup>22</sup> Relatedly, there was a demand to eliminate ODIHR's practice of announcing its preliminary findings in the one to two days following the election<sup>23</sup>—a consequential point because it is these reports that are covered most extensively in the media. As explored below, ODIHR made consequential adjustments related to the diversity and balance of its EOMs. With the steadfast support of key participating States, however, it held the line on fundamental questions of autonomy, recognizing that the credibility of its methodology and independence from political interference were its most crucial assets.

An additional challenge for ODIHR was its co-ordination with observers from the OSCE Parliamentary Assembly (PA), who were present in the host countries only for a short time around election day and were sometimes guided more by politics than by technocratic standards of election evaluation.<sup>24</sup> A 1997 cooperation agreement between ODIHR and the PA aimed to ensure that they would present a unified message in their statements and reports.<sup>25</sup> Yet there were tensions behind the scenes, particularly regarding observation missions in less democratic states such as Azerbaijan, Armenia, and Moldova.<sup>26</sup> These challenges were sharpest when the OSCE PA was under the de facto direction of Secretary General Spencer Oliver (from 1993 to

2015), whose view was that parliamentarians, “as elected officials, [...] are rightly presumed to know more about elections than anybody else.”<sup>27</sup> Oliver, who formally reported to the PA delegations and its elected Presidents, echoed multiple Russian positions, including that ODIHR applied double standards. Tensions reached a boiling point in 2012, when the PA announced that it was ceasing co-operation with ODIHR, and then subsided as ODIHR Director Janez Lenarčič (2008–2014) sought to work with the PA's political leadership to restore trust. Relations became more co-operative after Roberto Montella replaced Oliver as Secretary General of the PA in 2016.

## Adaptation

ODIHR would deal with these pressures by constructively responding to criticism related to diversity, representation, and bias but steadfastly resisting the erosion of the autonomy of its EOMs.<sup>28</sup> In 2002, ODIHR began sending election-related missions to established democracies. From 2002 to 2005, this consisted of just one to two missions per year, including to the United States, the United Kingdom, and Spain. This has increased over time; between 2018 and 2022, ODIHR authorized ten to sixteen missions to EU and North American participating States per year (the numbers vary based on how many elections are held per year). Although this practice had previously been resisted by some as an inefficient use of resources,<sup>29</sup> ODIHR officials soon came around to the idea, giv-

en that established democracies can also benefit from ODIHR expertise.<sup>30</sup> Many missions sent to established democracies are election assessment missions (EAMs), which leave a lighter footprint and do not deploy a full contingent of election-day observers. ODIHR staff have worked to dispel the misconception that these smaller missions are less consequential; rather, it is a matter of tailoring the mission to the particular needs of the country in question.<sup>31</sup>

Second, ODIHR took concrete steps to increase the number of observers from post-Soviet countries in its missions.<sup>32</sup> A milestone was the creation of a Diversification Fund in 2006 to financially support the incorporation of observers from seventeen under-represented countries into ODIHR EOMs. These efforts bore fruit: Since 2014, ODIHR election reports have listed the names and nationalities of each mission's observers. An analysis of these reports for post-Soviet elections reveals that from 2014 to 2019, an average of 17 percent of ODIHR observers came from other post-Soviet countries, including often sizeable contingents of Russian observers, although Russia is not part of the Diversification Fund. This represents a large increase compared to earlier years. Multiple ODIHR officials mark this as a success that has improved the representativeness of EOMs, with the added benefit of training and socializing a cohort of public officials and civil society leaders in former communist states.<sup>33</sup>

Third, ODIHR took steps to increase transparency and ensure the consistency of its evaluations. This has included the publication of handbooks on ODIHR's

methodology, including on the topics of media monitoring, women's participation in elections, and long-term observation,<sup>34</sup> as well as other efforts to formally respond to criticism and concerns (see for example ODIHR's 2006 report to the Ministerial Council, titled "Common Responsibility").<sup>35</sup> ODIHR EOMs also began issuing pre-election interim reports, which filled the gap between the needs assessment report and the preliminary post-election report.<sup>36</sup> In general, ODIHR staff and heads of missions have maintained a practice of carefully reviewing the language of statements and reports to ensure absolute consistency with OSCE election-related commitments, which in turn ensures consistency across countries.<sup>37</sup>

### Holding the line

Crucially, there was no compromise on ODIHR's election evaluation standards, the autonomy of its missions, or its practice of releasing preliminary post-election statements.<sup>38</sup> The United States, Canada, and EU members consistently supported ODIHR on these points. It remains the responsibility of the head of mission—a technocratic appointee who reports directly to the ODIHR Director—to approve and circulate EOM reports.

ODIHR has also assiduously defended the principle that the number and type of observers should be based on the findings of needs assessment missions (NAMs). At times, this has put ODIHR in conflict with governments. In the leadup to the 2007, 2008, and 2021 elections, the Russi-

an government attempted to place limits on the number of ODIHR observers, and similar moves occurred in Azerbaijan in 2015. In the 2020 election in Belarus, by the time the government issued an invitation, it was too late for ODIHR to organize an effective EOM. In each of these instances, the ODIHR leadership took the difficult decision to decline to send an observation mission, viewing the integrity of its methodology as paramount.

In navigating these waters, ODIHR benefited from the skilled leadership of various Directors, including Christian Strohal (2003–2008), Janez Lenarčič (2008–2014), and Michael Link (2014–2017), who worked vigilantly to ensure the office's survival, including through behind-the-scenes efforts to garner support from key participating States. The leadership was aided by the ingenuity and tenacity of ODIHR staff members, who used their expert knowledge to guide the office through recurring crises and budget shortfalls. Another asset to ODIHR election observation is the observers themselves, particularly heads of missions and core team members, who have consistently exhibited professionalism and have been "impervious to corruption."<sup>39</sup>

### **External challenges: Parallel election observation missions**

Parallel to the internal pressures for reform has been an external challenge in the form of non-Western and Russian-directed election observation entities that do not work according to the same inter-

nationally recognized standards for election observation. Perhaps most prominent of these is the CIS, which began observing elections in 2002 after introducing its Convention on Standards of Democratic Elections. While mirroring some of the language of the Copenhagen Document, it places greater emphasis on respect for state sovereignty, as well as principles that are present even in authoritarian elections, such as universal suffrage.<sup>40</sup> Beyond the CIS, other groups such as the Shanghai Cooperation Organisation (SCO) and the Organization of Turkic States (OTS) have also taken up election monitoring in the OSCE area. Autocrats also commonly invite a plethora of observers from little-known NGOs or friendly diplomats and political figures from other countries.<sup>41</sup> In Azerbaijan's 2013 presidential election, for example, the Central Election Commission reported that more than 1,300 observers from 50 international groups were present; of these, only ODIHR criticized the clearly flawed process.<sup>42</sup>

The data that I collected with Julia Gray, which tracks the presence and verdicts of different EOMs in post-communist countries from 1990 to 2018, sheds further light on the phenomenon of parallel election observers. The source materials for this data are international and domestic news reports.<sup>43</sup> As the data shows, there was a clear increase in the number of EOMs in post-Soviet countries beginning in the early 2000s. By 2010, on average, at least six different missions were present in these countries' national elections. In contrast, there has been no increase in the average number

of EOMs in other Central and Eastern European states that are not CIS members, in part because these countries are more democratic and experience less intense contestation between Russia and the West.<sup>44</sup>

In my examination of the range of EOMs that send missions to OSCE-area countries, sharp differences are apparent between ODIHR missions and other missions. ODIHR EOMs do not offer a simplistic up-or-down judgment; rather, they offer a comprehensive technical assessment of multiple aspects of the electoral process. This means, in practice, that ODIHR assessments include a range of positive and negative evaluations, matched by recommendations, related to the legal and administrative context of elections, media freedom, campaign conditions, and the casting and counting of ballots, among other dimensions. Importantly, ODIHR has not shied away from criticizing deficiencies when they are observed. In contrast, my analysis reveals that the CIS skews toward near universal approval of the elections it observes, as does the SCO. The only election ever to have been rejected by the CIS was Ukraine's repeat second round in December 2004—the contest following the Orange Revolution that brought pro-Western Viktor Yushchenko to power.<sup>45</sup>

This can be seen as part of a broader Russian-led disinformation campaign against Western institutions, the aim being to disrupt the established narrative and undermine the legitimacy of international standards for democracy and elections. In their study of the global phenomenon of shadow election moni-

toring, for example, Debre and Morgenbesser note that the goal is to influence *citizens'* perceptions by shaping domestic media coverage.<sup>46</sup> This is a pernicious goal given that one of the aims of ODIHR election observation is to provide accurate information about election quality to both the authorities and the public in the host countries.<sup>47</sup> The problem is exacerbated by the growing presence of media silos. Consumers of Western media read articles in which the statements of ODIHR missions are discussed prominently, whereas consumers of Russian media read articles focused on the positive evaluations of CIS and other shadow observers.

## Recommendations

ODIHR was created at a unique moment of optimism and ideological convergence between West and East in the aftermath of the Cold War. Its resilience is remarkable when one considers the breakdown in relations since then and the fact that ODIHR election observation touches upon one of the most sensitive nerves in these relations. Drawing on Gray's theory of international organization vitality,<sup>48</sup> it is clear that the office has benefited from its ability to attract quality staff and from its autonomy, that is, the ability of its election missions to conduct their work and publish conclusions free from political interference. Yet parallel to this story of survival and adaptation is the assault by alternative shadow election observation groups. This presents a thorny challenge to the legitimacy and influence

of ODIHR EOMs, particularly in terms of whether, and how, their message gets through to citizens on the ground. This paper offers the following recommendations:

*Continue to guard the integrity of the methodology.* This was widely identified as a top priority by ODIHR staff. ODIHR's credibility as a technocratic and apolitical evaluator of elections is its most precious asset. Key features of the methodology that should be defended by both the ODIHR leadership and OSCE participating States include its insistence that the size and shape of missions be determined by ODIHR itself on the basis of a NAM and that the head of mission—rather than a political body—have final responsibility for the content of all reports. The temptation to swerve from these principles can be great when under political pressure, as policymakers face a tradeoff between adherence to the methodology and the desire to retain broad-based support for election observation activities. Russia is not alone in exerting such pressure; in 2019, for example, Ukraine requested that the ODIHR mission not allow any Russian short-term observers (STOs). Yet, as one former Deputy Director expressed, “ODIHR must consider the long-term consequences of giving in to political pressures.”<sup>49</sup>

*Ensure adequate and timely funding.* Budget cuts and standoffs pose another longstanding challenge, with implications for ODIHR's methodology and effectiveness; for example, ODIHR must frequently operate on monthly allotments whenever approval of the annual budget is delayed, and the practice

of adhering to zero nominal growth in the OSCE budget has meant the de facto whittling down of funding for election observation over time. Nevertheless, ODIHR staff emphasize the importance of the existing funding model—whereby core missions are funded only through the OSCE's main budget, as approved by all participating States—for their legitimacy and impartiality. Talk of moving toward a different model, whereby EOMs would be funded in part through extrabudgetary contributions from a subset of participating States, should be treated with caution. Moving in this direction would allow less supportive states to dismiss ODIHR EOMs as reflecting the interests of particular governments rather than the commitments of the Organization as a whole. At present, the OSCE's Unified Budget process is paralyzed, meaning that ODIHR faces strong pressure to move toward a different funding model. At a minimum, stakeholders should work to ensure that any alternative budgetary arrangements include buy-ins from supportive CIS member states rather than relying on funding from EU or North American participating States alone.

*Participating States should step up their support.* It is not unusual for ODIHR EOMs to suffer a shortage of seconded observers, particularly for missions in EU member states and the United States, which may be (wrongly) perceived as less important to ODIHR's mandate. Western participating States should respond generously to requests for seconded observers and ensure that domestic regulations allow them to fund observers even in ad-



vanced economies that do not qualify for development assistance. A positive milestone in this regard is Hungary's 2022 election, in which a full EOM was both accepted by the Hungarian government and robustly supported by a large cohort of OSCE participating States.<sup>50</sup>

*Lead by example.* Another welcome step would be for all participating States to lead by example, by engaging seriously and publicly with the recommendations of the ODIHR election missions that they themselves host, a point emphasized by civil society groups.<sup>51</sup> In 2016, ODIHR published a Handbook on the Follow-up of Electoral Recommendations,<sup>52</sup> but practices continue to vary among governments in terms of how thoroughly they implement EOM recommendations. Improvement and greater consistency in this regard would help to counter claims of double standards among states west of Vienna.

*Enhance the relevance of ODIHR EOMs through (informal) linkages with other international organizations and influential states.* One reason for the continued willingness of less democratic governments to host ODIHR missions is that other key international players, including the EU, expect it. There may even be demand among international donors and investors, who regard the hosting of ODIHR EOMs as a signal of policy stability.<sup>53</sup> For ODIHR, then, its continued relevance is enhanced by this broader legitimacy and the use of its reports by other international actors. ODIHR should take all possible steps to ensure that its conclusions are well publicized, that its statements are differentiated from other shadow obser-

vation missions, and that it continues to be widely regarded as the gold standard in election observation.

## Notes

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