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ELECTION MANAGEMENT BODIES AND THEIR COMPOSITION

QUERY

Can you provide information on the composition of electoral commissions?

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Author(s)

Maíra Martini, Transparency International,
tihelpdesk@transparency.org

Reviewer(s)

Marie Chêne, Transparency International, Robin Hodess, PhD.,
Transparency International

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SUMMARY

An election management body is the body legally responsible for managing elections and other instruments of direct democracy. Election management bodies may be institutions which are fully independent from the executive government and composed of experts and/or partisan members, or governmental institutions which are part of the executive (for example Ministry of Interior). In the latter case, the bodies will not have members as the tasks are often carried by staff of the executive branch. Election management bodies can also be a combination of the two systems.

Most countries have opted for the independent model of election management bodies. The composition of these bodies, however, varies to a great extent. Some countries have opted for an expert-based body, where members are appointed on the basis of their professional qualifications rather than political affiliation. Countries which have passed through a difficult transition to democracy tend to have multiparty-based election management bodies (for example Slovakia), or combined systems where bodies are formed by both members of political parties and experts, which is the case in Lithuania and many other Eastern European countries, such as Romania, Bulgaria, and Hungary.

The integrity and impartiality of these bodies does not rely heavily on the composition of the body, but rather on how procedures are set and decisions are made. Irrespective of the model adopted, it is essential that electoral management bodies function according to the principles of transparency, accountability, professionalism and efficiency.

1 OVERVIEW OF ELECTION MANAGEMENT BODIES

What is an election management body?

An election management body is the body legally responsible for managing elections and other instruments of direct democracy. The responsibilities and structure of such bodies will vary from country to country, but they are often responsible for: (i) receiving and validating the nominations of electoral participants; (ii) counting the votes; (iii) tabulating the votes; (iv) dealing with electoral dispute resolution; and (v) overseeing the electoral process. In some countries, such bodies are also responsible for deciding/giving advice on any policy related to the political process.

Election management bodies are usually regulated by the electoral law. Their structure, appointment and qualification of members as well as functions should also be defined by law.

Types of election management bodies

There are three main types of election management bodies (ACE Project; International IDEA, 2006):

- **Independent**, where elections are organised and managed by a body (for example electoral commission) which is fully independent (financially and politically) from the executive power. The body is composed of members who are outside of the executive, such as experts and/or members of political parties, for example. While this model is adopted in the great majority of countries, there is still significant variation with regards to the body's composition, – who the members are, how they are appointed, term, responsibilities, structure, and their position in the broader structures of accountability of the state (for example some are accountable to the legislature, while others only have their activities scrutinised by the audit institution).
- **Governmental**, where elections are administered by the executive branch (for example Ministry of Interior) or by local authorities, and therefore the election management body often has no members, as

the functions are undertaken by civil servants already employed by the executive. The majority of countries in Western Europe have adopted this system, including Germany, Switzerland, Austria and Italy.

- **Mixed**, where there are two institutions responsible for the election process: a body which is independent of the executive and carries out activities related to policy-making and oversight, and a second body which is responsible for administering/organising elections, which is often located within a government department. Countries such as Spain, France and Japan have adopted this model.

The type of election management body adopted by a country will influence the regulations regarding its composition.

All election management bodies should follow the principles of transparency, impartiality, integrity, independence, efficiency and professionalism. These principles are critical to ensuring elections are conducted in a fair manner as well as to building citizens' confidence in the institution and political system.

When discussing the composition of election management bodies, irrespective of the type of membership chosen, it is fundamental that the mechanisms for selection and appointment of its members are transparent and set out by the law. Moreover, in order to enhance transparency and build confidence in the institution, meetings of electoral management body members should be open to the public. Decisions taken during meetings should also be made accessible to the public (International IDEA, 2006).

Finally, if clear and transparent rules are applied, an independent and impartial election management body can be found under any model (that is, independent, government and mixed) and be composed of either partisan or non-partisan members. The most appropriate type of membership will depend on the country's political environment and stage of democratic development (International IDEA, 2006; Birch, no year).

2 COMPOSITION OF ELECTION MANAGEMENT BODIES

As mentioned, the majority of countries have adopted the independent model of election management bodies. This means that the activities of these bodies will be carried out by individuals outside of the executive branch of government, who are especially appointed for this purpose. The electoral law in each country usually spells out the rules concerning such appointments, but generally membership varies among multiparty-based electoral bodies and an expert-based electoral body. Some countries have also opted for combining both party members and experts (International IDEA, 2006).

Multiparty-based election management bodies

Some countries have election management bodies composed solely of political party nominees. This is particularly the case in countries which have passed through a difficult process of transition, such as Central and Eastern European countries and post-conflict countries (for example Mozambique), and where civil servants were/are not seen as fully impartial and independent actors on election matters.

Rules regarding the composition of such bodies vary across countries. Some countries adopting this system have established that all political parties registered in an election are entitled to appoint a member to the election management body. In other countries, thresholds may be used to restrict representation (for example only political parties represented in the legislature or receiving a certain percentage of the votes are entitled to be represented in the election management body) (International IDEA, 2006).

Appointment requirements also vary across countries. In the majority of cases, nominees are members of a political party and thus have to combine both functions: representing the parties' interests while also ensuring the impartial application of the electoral law. Some countries, however, have established that a political party nominee should be an eminent person required to maintain high standards of impartiality and professionalism, and therefore may not necessarily be a member of the respective political party.

Advantages

According to electoral analysts, an election management body formed by political party representatives may help to enhance confidence in the electoral process, particularly in states in transition where the state bureaucracy is not perceived to be politically neutral. Scholars have underscored the fact that having representatives of different political parties may help to balance possible bias (Birch, no year). Nevertheless, according to experts, depoliticisation of electoral management bodies may be more appropriate as trust in the electoral process increases (International IDEA, 2006). Other advantages of such a system are:

- Voters may feel encouraged to participate in elections if their leaders are playing an active role.
- Political party input to the electoral policy development is ensured.
- Electoral transparency can be enhanced by having different groups involved in the process.
- Management of the electoral process may benefit from the political experience brought by these members.

Disadvantages

There are also, however, disadvantages in establishing a system which relies exclusively on political party appointments, particularly if the activities of the electoral body are not carried out in a transparent and accountable manner. For instance, crucial decisions can be jeopardised in situations where political parties' interests are at stake (International IDEA, 2006). Other common disadvantages are:

- Members' actions may be politically motivated.
- Members may not have the appropriate professional experience or qualification.
- The body may lack credibility if political parties are underrepresented.
- It may be difficult to find consensus decision-making if the number of actors involved is too large.
- Members may suffer from political pressure.

Country examples

As of 2006, 23 countries out of 214 analysed by International IDEA had election management bodies with a multiparty composition, including Slovakia, Latvia, Israel, Mozambique, Rwanda and Colombia,

In Slovakia, all election management bodies are formed on an ad hoc basis for each election (that is central, district-level and precinct elections). According to the electoral law, parties and coalitions participating in the election may nominate members to the election commissions. The only requirement for nomination is to be a voter in Slovakia (Electoral Law, 1999). In the last parliamentary elections, all 18 parties registered nominated members to the Central Election Commission.

The Central Election Commission is responsible for taking care of the registration of electoral contestants and for supervising the activities of lower-level election commissions. In addition, the commission establishes and publishes the final election results, issues certificates to elected deputies, and ensures the equal allocation of free air time to candidates in the public media (OSCE, 2010).

In Mozambique, the election management system is comprised of the National Election Commission and a subordinated secretariat responsible for administering elections (Technical Secretariat for the Administration of Elections).

The National Election Commission is responsible for a wide range of tasks, including: guaranteeing free, fair, and transparent elections and referendums; the supervision of electoral violations and the management of complaints and appeals; and for regulating the distribution of state funding, election observation mission and the role of the media. The commission is also responsible for technical tasks such as the tallying of election results (International IDEA, 2006).

The National Election Commission consists of 19 members appointed for five years. With the exception of the chairperson, who is elected by the commission on the basis of a nomination by civil society organisations and appointment by the president of the Republic, all the other 18 members are nominated by political parties in proportion to the number of seats they hold in the Parliament (International IDEA, 2006). The government also

appoints one member of Parliament to participate in all open meetings of the commission. This member, however, does not have the right to vote in any of the commission's decisions.

According to the electoral law, members of the electoral commission are expected to be professionally qualified and to carry out their work with integrity, independence and impartiality. However, despite this mandate, in practice it is a highly-politicised body whose political party appointees represent the interests of their own parties rather than the public interest (International IDEA, 2006).

Expert-based election management bodies

The great majority of countries which have an independent election management body have opted for non-party-based election management bodies. In these cases, members of the election body are appointed on the basis of their professional qualification rather than political affiliation.

The requirements to qualify as a potential member of such a body are usually spelt out in the electoral law. They often include impartiality, minimum age, professional qualification and electoral knowledge, as well as non-partisanship (International IDEA, 2006).

Advantages

There are many advantages of adopting such a system, particularly with regards to the neutrality and impartiality of members, which can help to promote trust, and the credibility of the election management body. The literature also underscores the following advantages (International IDEA, 2006):

- Members are more likely to be professional and qualified.
- Members are less likely to suffer political pressure.
- Eminent public figures (for example judges) raise the profile and credibility of the body.
- Members can draw on a wide range of professional and expert networks.

Disadvantages

There are also disadvantages in having an expert-

based election management body, including (International IDEA, 2006):

- Experts are less likely to be aware of relevant political factors.
- Experts have weaker links with key electoral stakeholders.
- The most suitable experts may not be willing to serve.
- In transitional environments, it may be difficult to find experts who are non-partisan.

Country examples

The great majority of countries assessed by International IDEA (2006) which have an independent election management body have opted for appointing non-partisan members, including Australia, Canada, India, Poland, Brazil, Mexico, Georgia and Turkey.

In Canada, the Office of the Chief Electoral Officer of Canada, also called Elections Canada, is an independent agency set up by Parliament to administer all aspects of federal electoral events. The office is responsible for: maintaining the national register of electors; registering political parties; overseeing campaign financing; authorising the payment of allowances to registered parties; reimbursing the election expenses of candidates and parties; and appointing the Commissioner of Canada Elections, whose responsibilities include enforcing electoral legislation (Elections Canada, website).

The chief electoral officer is appointed by a resolution of the House of Commons, based on a simple majority rule. All other members of the office must be politically neutral. They must take an oath to uphold voters' rights and the secrecy of the vote, and to perform their duties without favouritism (Elections Canada, website).

In **Brazil**, election management bodies are a specialised segment of the judicial branch, and therefore comprised of judges and a small number of expert lawyers. Decisions on electoral matters and the administration of election are thus the responsibility of the Supreme Electoral Court and of regional electoral courts. During election periods, regular judges are responsible for overseeing the election process.

The Supreme Electoral Court is the highest institution in the Brazilian electoral system. The court is composed of seven members with a term of two years. Three of them are elected by secret vote from among the Justices of the Supreme Court, and two other judges are elected by secret vote from among the Justices of the Superior Court of Justice. The remaining two members are appointed by the president of the Republic from among six lawyers of notable juridical learning and good moral reputation, upon nomination by the Supreme Court (Supreme Electoral Court website).

Multiparty- and expert-based (combined) election management bodies

Election management bodies may also be composed of both political parties' representatives and politically non-aligned members with or without expertise, such as judges, academics and members of civil society organisations, among others. In this case, members may be appointed by the Parliament and civil society, as well as by political parties.

This system can be implemented in different ways, meaning that the roles of the distinct members, rules for appointment and structure of the body vary from country to country.

Advantages

This model may combine the advantages of both expert-based and multiparty-based election management bodies. It may provide a solution for maintaining political party support while ensuring professionalism and transparency in the administration of elections. Within this framework, the main advantages of such a system include (International IDEA, 2006):

- Combined composition provides for a balance between political and technical considerations.
- Expert members may offset attempts at partisan actions.
- The body is transparent to political participants while having professional credibility.

Disadvantages

Nevertheless, some of the challenges faced by other

systems remain or are even exacerbated in the combined model. For instance (International IDEA, 2006):

- Members of political parties and experts may have different agendas, and therefore consensus decision-making may be difficult.
- The body may face competitive leaking of information between its components.
- It may lack credibility if some political parties are excluded.
- Highly competent experts may not be willing to work with political elements.

Country examples

As of 2006, 34 countries out of the 214 analysed by International IDEA had election management bodies with a mixed composition, including several Eastern European countries such as Lithuania, Romania, Slovenia, Bulgaria, Serbia, Croatia, Hungary and Montenegro. Other countries with similar structures are Russia, Kazakhstan, Albania and Uruguay.

Bulgaria's electoral administration consists of a Central Election Commission, District Election Commissions for national elections or Municipal Election Commissions for local elections respectively, and Precinct Election Commissions. The Central Election Commission is responsible for administering the election process and overseeing the performance of the lower-level commissions (Transparency International Bulgaria, 2011).

The president appoints the Central Election Commission members and the chairperson. The composition of the commissions at every level is party-based and depends on the share of parliamentary seats held at the time of appointment. Members of Center Election Commission are not allowed to engage in political campaigns (Transparency International Bulgaria, 2011).

In Hungary, the National Election Committee is an independent body responsible for ensuring the fairness, impartiality, and legality of the election process (Act C on Electoral Procedure). It is composed of elected and party-nominated members who have a four-year term. The head of the committee and its four other members are appointed by the Parliament, upon proposals of the Ministry of Local Government which are based on the

recommendations of political parties. In addition to the five members, all parties, coalitions and individual candidates competing in the elections are allowed to nominate one delegate each (OSCE, 2010).

According to Article 22 of Act C of Electoral Procedure, any registered Hungarian voter can be part of the National Election Committee, with a few exceptions – such as heads of administrative offices, mayors, members of election offices, civil servants of administrative bodies operating in the area of competence of the election committee, or candidates.

Responsibilities of the National Election Committee include: (i) ensuring uniform interpretation of the regulations and legal practice with respect to the elections; (ii) making decisions on appeals submitted concerning the activity of the election office; (iii) making decisions on appeals against the decisions of the regional election committees; (iv) ascertaining and publishing the results of the elections evaluated nationally; and (v) initiating the decision of the body of authority in the event of any legal violation. During elections (for example legislative, local, European Parliament) and referendums, the committee also has other responsibilities, including making decisions on registering national lists and reporting on the elections to Parliament (National Election Committee, website).

Similar electoral committees also exist at the sub-national level. They are composed of members of political parties, independent candidates, and at least three members elected by the relevant local legislative body (OSCE, 2010)

Administrative and logistical support is provided by the Electoral Office, which is composed of civil servants. According to the Organization for Security and Co-operation in Europe (OSCE), the electoral management system in Hungary is administered fairly and there is broad public confidence in the administration of elections. Nevertheless, better integration between election committees and election offices could be beneficial, particularly on issues which have political consequences, such as ballot paper design or procedures for distant voting (OSCE, 2010).

Romania also combines experts with party members in its electoral management system. Elections are administered by two structures: the Permanent

Electoral Authority and a three-tier structure of election bureaux that is established for each election and is headed by the Central Election Bureau.

The Permanent Electoral Authority is led by a president who is appointed by the two chambers of Parliament, based on the proposal of parliamentary groups. The president is supported by two vice-presidents; one is appointed by the president of the Republic and the other by the prime minister. The main responsibilities of the Permanent Electoral Authority include issuing decisions and instructions with regard to the electoral legal framework, ensuring logistical arrangements for the conduct of elections, developing training programmes for the elections officials, and conducting by-elections. In addition, the authority oversees political finance regulations (OSCE, 2012).

The Central Election Bureau consists of five judges of the Supreme Court of Cassation and Justice, who are selected from among all judges in the court by the drawing of lots, as well as of the president and vice-presidents of the Permanent Electoral Authority, and up to 12 representatives of electoral contestants.

The election bureaux established for each election are formed of three judges, one member of the Permanent Electoral Authority, and up to nine representatives of electoral contestants. Parliamentary parties have priority in appointing members to the election bureaux at all levels. Remaining seats at the Central Election Bureau are filled by representatives of political parties which are not in the legislature, based on the number of candidacies submitted by them.

The law allows extremely broad provisions (that is 'people of good reputation') with regard to the qualification of members of the bureaux. Some of the experts monitoring the 2012 elections have raised concerns over the process of appointing members of the Central Election Bureau and election bureaux. Nevertheless, in general, observers stated that election administration in the country is conducted in an impartial and professional manner (OSCE, 2012).

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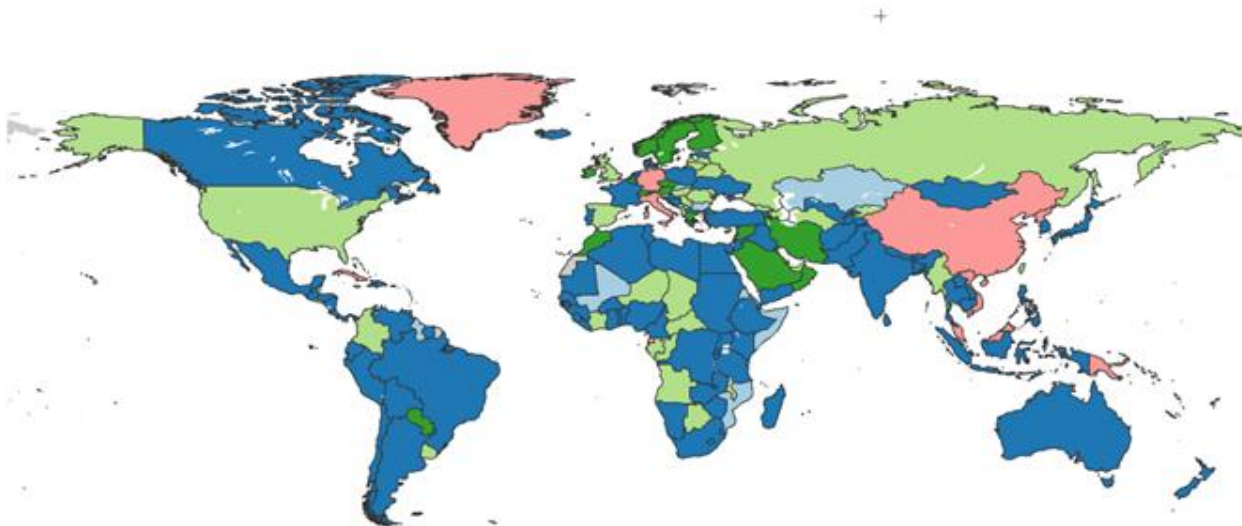
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4 ANNEX: MAP OF THE COMPOSITION OF ELECTION MANAGEMENT BODIES

The EMB members/commissioners are selected on the basis of their:

total countries/territories: 218



For an interactive version of the map visit:
http://aceproject.org/epic-en/CDMap?question=EM014&set_language=en

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