

Overseas Election Observation Roster

Information Note for the Joint Committee on Foreign Affairs and Trade, and Defence

I. General

1. A roster of volunteers willing and suitable to partake in overseas election observation missions is maintained by the Department of Foreign Affairs and Trade. Volunteers are nominated as occasions arise to observation missions organised by either the European Union or the OSCE's Office for Democratic Institutions and Human Rights (OSCE-ODIHR). The current roster was mustered in January 2019.
2. The roster exists on a non-statutory basis. Expenses only are payable to those volunteers who have been successfully nominated to an observation mission. The allocation for election observation in 2019 is €180,000 – equivalent to 0.0003% of the Irish Aid budget this year.
3. In view of a high level of interest in the new roster, this information note outlines history of the Irish roster, its day-to-day operation, and the recent mustering process.

II. History of the roster

4. Building on its recruitment of volunteers to observe elections in Cambodia, South Africa, Bosnia and Croatia, in 1995 the former Agency for Personal Service Overseas (APSO) established an Elections Monitors Register. Election observers were nominated from this register to election observation missions organised by the UN, the European Commission, the OSCE, the Council of Europe and the Carter Centre. Today, the practice is to nominate volunteers from the roster to EU and OSCE-ODHIR missions only. (Irish people can volunteer to monitor with the Council of Europe and other missions, in a personal capacity. For example, many Oireachtas members have served as Council of Europe monitors).
5. A number of other EU Member States maintain election observation rosters. The specific characteristics of each roster varies from country to country. In some cases, the roster is managed by a stand-alone body; in others by the Foreign Ministry. Ireland participates in a number of fora organised by the EU and OSCE-ODHIR where election monitoring standards are agreed and models of best practice exchanged.
6. OSCE-ODHIR carries out election observation missions in OSCE member states. EU election observation missions are agreed on a case-by-case basis. In advance of a prospective election observation mission, interested States are invited to submit the names of prospective participants for consideration by the OSCE-ODHIR or EU central authorities. Typically, each mission has two categories of observer, long-term and

short-term, with the latter category accounting for the majority of observers. The selection of observers is made on a mission by mission basis by the EU or OSCE-ODHIR on the basis of those nominations from national rosters.

7. With the abolition of APSO, from 1 January 2004 the Department of Foreign Affairs took on responsibility for maintaining the APSO activities, including election observation. Until 2012, this simply meant the administration of the register as developed by APSO. Members of the APSO register had initially self-nominated with no selection process. There was no formal mechanism for deactivating membership and members rarely left. With a large membership, it was possible to nominate only a small proportion of members to missions.
8. Over time, it became clear from interaction with organisations organising election observation missions and from feedback from potential volunteers that a modernised, fit-for-purpose roster with an appropriate mix of skills and experience was required. After a comprehensive review and consistent with best international observer practice, it was decided to constitute a smaller, time bound, roster with all potential volunteers subject to a selection process.

III. Operation of the roster

9. Volunteers on the Irish roster are made aware of each prospective mission and of any specific requirements, such as language, identified by the EU or OSCE-ODHIR in their *Call for Observers*. Volunteers are invited to indicate their willingness to be nominated for a given mission. Nomination is made by the Department of Foreign Affairs and Trade having regard to specific mission requirements, as well as general principles of considering gender balance and providing a fair opportunity for all roster members.
10. Members of the roster are required to keep up-to-date their personal profiles on the EU and OSCE online databases. The Department is not permitted access to observers' OSCE and EU profiles except for a number of specified purposes, such as when nominating an observer. This is in keeping with normal data protection protocols. Information on these databases is available from the websites of the OSCE-ODHIR and the European External Action Services.
11. The designated national Focal Point is the Election Observation Desk in the Department of Foreign Affairs and Trade. Focal points receive correspondence relating to election observation from EU and OSCE-ODHIR. They participate in the EU-led Election Observation Network, which brings together focal points from EU Member States, Canada, Switzerland and Norway, and facilitates the exchange of information and best practice on election observation, and its OSCE equivalent.
12. A key task is the management of the roster, including: circulating *Calls for Observers* to members of the roster; reviewing expressions of interest from roster members;

responding to queries, including transparency requirements; processing expense payments; and arranging insurance, flight, medical, debriefing, urgent issues arising on mission and other details.

13. As currently constituted, the Elections Desk comprises two officers with overseas election observation experience, and also wider experience of democratisation, human rights and rule of law, with clerical support. Given the relatively small budget, officers assigned to the Elections Desk also have other responsibilities, including the prudential management of Irish Aid funds and ongoing liaison with Irish Aid programme partners. If and as necessary, additional support from the Development Cooperation and Africa Division of the Department is deployed in support of the desk.

IV. 2013 - 2018 roster

14. A selection process allowed the mustering of a new election observation roster in May 2013. The roster, which expired on 31 December 2018, consisted of 200 volunteer observers with a reserve panel of 10. The mustering of the 2013 roster, which was smaller than the APSO register it replaced, allowed the entry of some new volunteers while some previous volunteers were not successful in their request for placement on the 2013 roster.
15. Ireland participated in approximately 14 election observation missions each year over the life of the roster, with about 60 volunteers participating in missions annually.
16. Statistics on Irish roster members' participation in election observation missions are uploaded to the election observation page of www.irishaid.ie website on a quarterly basis.
17. One individual who was not selected in the 2013 process submitted a series of enquiries regarding the 2013 selection process, and the operation and workings of the roster. The Department refused to grant one of these requests under the Freedom of Information Act on the grounds that it was "frivolous and vexatious". The individual appealed internally, and then to the Office of the Information Commissioner, and then to the High Court but the original decision of the Department has been upheld at every stage to date. Paragraph 21 of the High Court's ruling refers: *"In these circumstances, I am satisfied that the respondent properly came to the view that the request of 28th May 2016 was to further the appellant's personal grievance and it was within the jurisdiction of the respondent to classify such a request as being vexatious so that the request might be refused."* Further, the High Court awarded costs against the individual and in favour of the Office of the Information Commissioner and the Department of Foreign Affairs and Trade. The appellant has appealed the ruling to the Court of Appeal and a hearing is set for March 2020. *
18. The bureaucratic overhead required to deal with voluminous queries influenced the Department's decision to extend the lifetime of the roster to 31 December 2018.

V. Mustering the 2019 - 2023 roster

19. With a view to mustering a new roster effective from 1 January 2019, prospective volunteers were invited to partake in a selection process. The application period of the process ran for seven weeks, from 2 July 2018 to 17.30 pm on 20 August 2018. This deadline was applied strictly, with no late applications accepted. 395 applications were received by the deadline. Of these, 377 applications were deemed to have the essential requirements listed in the Volunteer Information Booklet.
20. The applications of the 377 prospective volunteers were then assessed by one of eight panels. An independent quality assurance company provided external calibration and quality assurance of the panels' assessments. Each panel had an external chair, a retired senior official. The broad experience of the senior officials in democratisation, human rights and recruitment matters was a benefit to the process. Separately, the fees payable to retired officials are set out in the Financial and Emergency Measures in the Public Interest Act, 2013.
21. All panel members received training, including on the nine grounds of discrimination and on avoiding unconscious bias.
22. All prospective volunteers were required to complete a competency-based application form. Competency frameworks are used throughout Ireland's public service, as well as by international and private sector organisations and is generally regarded as a method of best practice in candidate selection. The Volunteer Information Booklet accompanying the process set out clearly the competency approach and application requirements. Applicants were required to provide in their application at least one relevant example under each of five competencies being assessed. In keeping with standard practice, only material provided in prospective volunteers' applications was made available to assessment panels, i.e. no other records or documents could be considered. Where prospective volunteers had relevant experience, for example as a participant in an international election observation mission, this was fully considered when it was demonstrated through the examples provided in their application form.
23. In designing the selection process, the Elections Desk consulted widely on best practice, including with the EU, OSCE-ODHIR and the Department's Human Resources team. As this is a volunteer roster and as in maintaining a roster the Department is providing a service to the EU and OSCE-ODHIR, membership does not involve employment in the Civil or Public Sector, nor is it analogous to appointment to State boards or bodies. Consequently, the Codes of Practice of the Commission for Public Service Appointments (CPSA) do not apply.
24. Advanced consideration was given to interviewing prospective volunteers. However, having regard to the overall cost of administering the roster, it was decided that the

cost of interviews would be disproportionate, that the process would be delayed inordinately, and that the assessment of competency-based applications would deliver both a fair outcome and value for money. Of influence in coming to this value for money determination on the process was that, over the five years of the 2013-18 roster, the number of days any given roster member spent on mission was relatively low.

25. The guidance given to prospective volunteers, including the Volunteer Information Booklet, was clear on the selection process, including that there would be no interviews. The guidance also noted that canvassing would disqualify.
26. The decision not to interview potential volunteers was confirmed in a letter of 9 July 2018 from the Secretary-General of the Department to the Chairman of the Oireachtas Committee on Public Accounts. The letter was noted and published by the Committee. It is included in the *PAC Fourth Periodic Report, May-July 2018*¹. In addition, the intended selection process was mentioned in responses to several Parliamentary Questions between 21 June and 20 August 2018, with the response to Parliamentary Question Number 104 of 24 July 2018 explicitly stating that the assessment process would be desk-based and that no interviews would be held.
27. The decision to shortlist on the basis of written applications was consistent with the practice for shortlisting for recruitment and promotion competitions in the public service (although as noted roster members are volunteers, not employees). Interviews are used to determine individual rankings when e.g. a panel is to be established. However, for a volunteer roster of several hundred members, individual ranking is not relevant: all those placed on the roster, once security vetted, are invited to submit expressions of interest on an equal basis.
28. 204 volunteers were shortlisted for membership the new roster, 201 of whom agreed to continue forward with security vetting, online training, language verification and registration with EU and OSCE. This number includes three people who had been elected to national-level office and who had exceeded the minimum passing score whom the Marks Approval Panel added to bring the percentage of roster members elected at national level to 5% of its total. The Marks Approval Panel considered that the roster should have at least 5% of members who had themselves been elected to national office. Such individuals bring added visibility and credibility to a national roster.
29. Generally speaking, those shortlisted to the new roster possess a broad range of relevant experiences and it is anticipated that as these volunteers are deployed that they will enhance the reputation of Ireland. As volunteers complete vetting and training processes, they are being asked to consent to the publication of their names.

¹ See pages 15-16, appendix 5, at the following link:

https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/committee_of_public_accounts/submissions/2018/2018-07-12_correspondence-niall-burgess-secretary-general-department-of-foreign-affairs-32r001477-pac_en.pdf

30. Training of vetted roster members is ongoing, delivered by a representative of the EU Election Observation and Democracy Support (EODS) project, previous roster members, and also including sessions on safeguarding and sexual harassment. Feedback was extremely positive, noting the continuing upskilling and improvement of the roster.
31. It is understandable that those unsuccessful in their applications for selection to the roster would be disappointed, particularly those who had been on a previous roster. However, the intense competition for places allows Ireland to contribute high quality election observers. The rotation of roster members also allows the roster to be refreshed and ensures the sustainability of the roster into the future.

VI Appeals process

32. An appeals process was available to unsuccessful applicants. All were informed of the process and grounds for appeal. The deadline for appeal was two weeks after results issued, closing at midnight on 31 December. 34 candidates requested an appeal, of which 21 applications were submitted to the Appeals panel.
33. The Appeals panel consisted of an external chair (a retired senior official) and a serving DFAT official (who works in an area unconnected with the roster). Together, the panel members have a broad range of combined experience in multilateral work, overseas election observation, human rights and democratisation. The analogous experience of Appeals panel members with the experience of the original selection panels is to assist consistency of approach across the selection process.
34. Consistent with the appeals format in use by the Public Appointments Service (PAS), (although it should be noted that election observers are volunteers not employees), the appeals panel does not score applications. Instead it considers the grounds provided by the candidate and whether there is sufficient justification to change the material outcome of the result (i.e. whether following a thorough review the candidate should be added to the list of those shortlisted to the roster.) The only document which the Appeals Panel completes is a record of its decision.
35. The Appeals panel met on a number of occasions, finalising its deliberations on 22 February. All those who appealed are being written to this week² to inform them of the determinations in each case. Included in that correspondence is a copy of the terms of reference for the appeals process – see attached. Separately, a document responding to general questions received from candidates is being prepared to accompany determinations.

² The determinations of the appeals panel issued to individual appellants on 4 March 2019. Further to the appeals process, two additional persons were added to the list of those shortlisted to the roster.

36. Following release of appeals determinations and associated documentation to candidates, there will be no further correspondence with candidates on the selection process or on individual applications. Candidates were informed that the decision of the Appeals Panel would be final. Should an unsuccessful candidate so wish, they would have recourse to the Office of the Ombudsman. It is the strong view of the Department that the selection process was fair and consistent.
37. The appeals process took longer than originally anticipated as legal advice was sought regarding an applicant who entered a claim for reasonable accommodation on ground of disability at the appeal process stage – see below.

VI Admissibility of request for reasonable accommodation

38. On 31 December 2018, one applicant requested, as part of an appeal, a reasonable accommodation on grounds of a disability. Following legal advice, the Department informed the applicant that they had decided not to change the rules and that the request for reasonable accommodation was inadmissible.
39. The applicant alleged on 24 January 2019 that a request for a reasonable accommodation had been attached to his original application, attaching a scanned document to back up this claim. The Department's ICT Unit has conducted an intensive search and has ascertained that the additional attachment was not included in the original application. In addition, paper searches have also shown that no such correspondence was received at the time of application, or at any stage while the application process was open.
40. The allegation of 24 January 2019 that a reasonable accommodation had been sought is factually incorrect. Allegations in correspondence with parties outside the Department suggesting that named officials in the Elections Desk were negligent in their handling of correspondence regarding the non-existent request for a reasonable accommodation are both unfair and damaging to the reputation of the officials.
41. Advice from both the National Disability Authority and the Public Appointments Service (PAS) conveys that the onus is on an applicant with a disability to request a reasonable accommodation at the time of application. Further, given that this was a documentary process, with a number of weeks allowed to complete the form, any applicant could have sought third party assistance during that period to assist in navigation of challenges which completing the form could have generated.
42. Had any candidate sought a reasonable accommodation at the time of original application, this request would have been given appropriate consideration. While the appellant has said that he had previously brought his disability to the attention of the Department, that was separate to the selection process in question. It would have been contrary to data protection regulations and good practice more generally to have undertaken background research on any of the volunteers applying for

consideration – the only material available to the panels which marked applications was that provided by applicants themselves.

Development Cooperation and Africa Division,
Department of Foreign Affairs and Trade

22 May 2019

* Following a request under Section 9 of the Freedom of Information Act, this paragraph has been updated to quote the findings of the High Court in its March 2018 ruling.