



## ERN RESEARCH

### HOW OTHER DEMOCRACIES RUN ELECTIONS AND COUNT RESULTS

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#### ***Abstract***

This study looks at 12 democratic countries, all of which have a record of democratic elections stretching back at least thirty years. These democracies have grown in very different ways. Five have electoral frameworks rooted in a historic link with the U.K.: Australia, Canada, India, South Africa, and the U.K. itself. Four are western European countries with long-standing democratic frameworks: France, Germany, the Netherlands and Spain. Three are eastern European countries which have built their democracies since the fall of the Berlin Wall: Bulgaria, the Czech Republic, and Poland.

All of these countries are classified by Freedom House as free except for India, which falls just below the threshold. Five of them — Australia, Canada, Germany, India, and South Africa — are generally considered to have federal constitutions, under which different powers are vested at the national level and at the state/provincial level; the remaining seven are considered unitary states. Together, they provide a wide-ranging and impressive selection of global democracies, in all of which the principle of one person, one vote, one value is realized through electoral frameworks and standards for national elections which are the same across the whole country.

The histories and political cultures of these twelve democracies span a very wide spectrum. Nonetheless, several common themes about organizing and counting credible and legitimate democratic elections clearly emerge. It is fundamental that those responsible for the policy and overall direction of electoral processes fearlessly ensure a level electoral playing field. Effective election implementation and organization is a professional, executive function. It is rarely appropriate for political parties or individual candidates who are contestants in the electoral process to have any role in running elections. Transparency of the electoral process

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for candidates, political parties and citizens is essential to building and maintaining trust. And when serious disputes do arise — which is inevitable given what can be at stake in national elections — they are resolved by an independent judiciary.

From a U.S. perspective, it is significant that a phrase much in the news recently, “certification of results” does not appear in the electoral code of any of the 12 countries studied. None of these countries set aside a separate step for a separate body or individual to officially check and confirm results, as is common in the U.S. Instead, results are declared by the election officials, and then any challenges to their work, to the accuracy of their math, or to the fairness of their procedures, are decided in court.

In all but two of the 12 countries studied, political parties have no role at all in the declaration of results, aside from their right to observe the phases of counting and to challenge results in court. The exceptions are Bulgaria and Poland, both of which employ elements of a “mutual policing” model, incorporating party representatives into election administration, that was common in the first elections in Central and Eastern European countries following the fall of the Berlin Wall. The use of this system is in decline in the region, and it is essentially unknown elsewhere in the democratic world, other than in the United States.

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*This study was commissioned by Election Reformers Network (ERN) in response to recent threats to elections in the United States that have arisen during the certification of results in some states. ERN intends for the comparative information presented here to help inform discussion of how the risks of such threats can be reduced.*

*Individual country details are presented in Figure 1.*

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### ***Who is responsible for elections?***

The holding of elections in every one of these 12 countries is based on the existence of a permanent national electoral body. What all have in common is that the implementation and organization of elections is the professional executive responsibility either of a specialized secretariat or of a part of the civil service. The overall shape of electoral management then follows one of three models. Whichever is adopted, its success depends on its ability to act with fearless independence to ensure a level playing-field for all electoral contestants.

In the first model, an established independent national electoral commission is created through legislation. This commission is responsible both for electoral policy decisions and direction and for the implementation and organization of elections, and is supported by a permanent secretariat (Australia, Bulgaria, Canada, India, Poland, South Africa). In the older democracies with historic roots in U.K. practice, senior civil servants, judges, or a combination serve as the commissioners. In the three post-Berlin-Wall democracies, many of the commissioners are nominated by political parties represented in the legislature, either with

all party approval or on the basis that they will mutually police each other. The remainder are drawn from the judiciary.

The second model gives full responsibility under legislation to one or more parts of the civil service at national and/or local level (Czech Republic, Germany, U.K.).

The third model is a combination of the first two, with an independent commission or body responsible for policy issues and a part of the civil service dealing with electoral implementation and organization (France, Netherlands, Spain).

The practicalities of the conduct of elections vary significantly as a result of differences in the choices of electoral system. Five countries use majoritarian systems with separate contests in individual single-member electoral districts: Australia, Canada, France, India, and the U.K. (the U.S. also uses this system). Six use list-based proportional systems electing groups of members in multi-member electoral districts, usually at the provincial or equivalent level (Bulgaria, Czech Republic, Poland, South Africa, Spain), and less commonly with one single national district (the Netherlands). Germany combines these two approaches: Its mixed-member proportional system has two components, one consisting of individual single-member districts and the other electing groups of members by proportional representation at the provincial level.

### ***Overall responsibility for a national election***

The choice of electoral system has important consequences for electoral management. Where majoritarian single-member districts are used, separate individual contests take place, in line with national legislation and regulations. The responsibility for each individual district election is in most cases assigned to a Returning Officer, who is in some cases a permanent member of electoral staff and in others a permanent national or local civil servant. France is the exception: Responsibility lies with independent commissions at subnational level composed of judges, a local councillor and a civil servant, with implementation and organization in the hands of subnational civil servants working within nationally set standards.

Where proportional representation is used based on multi-member electoral districts at either national or subnational level, responsibility for the electoral process cannot lie in each locality. In many cases, the national electoral body is supplemented for each election by subnational (regional/provincial/intermediate) level commissions, usually temporary in nature. In setting up these commissions, the range of models found at national level is followed. The commissions are composed of varying combinations of judges or legally qualified people, academic experts, regional or local civil servants, or in one country (Bulgaria) the nominations of a consensus of political parties meeting together.

### ***How elections are counted***

There is one very important common factor in the processes for counting of elections: a commitment to transparency. In almost all cases, candidates, political party scrutineers or agents, and often citizen observers as well, have the right of access to watch each stage of the process of counting ballot papers and tabulating and consolidating results. There are only

a few exceptions, which include the consolidations at subnational level in France and at national level in the Czech Republic.

In ten of the twelve countries, the counting of ballots takes place in the polling station. This gives candidates, political party representatives, and citizen observers the ability to record for themselves the vote totals at each station and subsequently to verify the overall totals. India and the U.K. are the two exceptions. All ballot boxes for a single member district are taken to a single central counting point and opened and counted there in processes open to party observers.

For elections in multimember districts, it is necessary to bring together the vote totals from every polling station, tabulate them, and consolidate them to establish the overall vote totals across the district. In all but one of the European examples, this is a task of the subnational commission. In the Czech Republic, it is undertaken by the national statistical office. In South Africa, a staff member of the secretariat of the independent national electoral commission is responsible.

In all of the majoritarian systems which have roots in U.K. practice, a Returning Officer who thinks that reasonable grounds exist has the power to conduct a recount before declaring the election result. The national electoral body of the Netherlands also has this power. Elsewhere, no specific provision exists.

In some electoral processes, provisional, preliminary or partial results are issued by the electoral authority in the course of the tabulation and consolidation. This is most often done in order to ensure that lack of public information does not lead to speculation in a vacuum — in which the rumour mill or the spin room can destroy credibility and trust in the election before the full results are formally declared. South Africa, for example, runs a continuously updated preliminary results dashboard. These pre-declaration results, however, have no formal status in electing anybody.

### ***The result is declared***

When the process of counting, tabulation and consolidation is complete, the declaration of the election results takes place. In Australia, Canada, India, and the U.K., this is the task of the Returning Officer. Subnational commissions declare the results in France and Spain, and also have this responsibility for the single-member districts in Germany and for the election of any successful independents in Bulgaria. The national commission is fully responsible for declaration in the Czech Republic, the Netherlands, Poland, and South Africa, and for the declaration of party candidates in Bulgaria and proportional representation seats in Germany.

### ***Challenging the result***

The declaration of the result is a formal event. Once it has taken place, it can only be challenged through another formal process. The usual practice, which reflects the long-term global trend in the handling of electoral disputes, is that any challenge is heard by the judiciary. In Australia, Canada, India, Poland and the U.K., a regular court, possibly sitting in a special role, is responsible. In South Africa, there is a special electoral court. In the Czech

Republic and Spain, the administrative court is responsible. In Bulgaria and France, it is the constitutional court or council.

The practice of the legislature hearing challenges to its membership was commonly adopted in the very early years of democracy but has been in decline for well over a hundred years (this practice is established in the U.S. Constitution and in most state constitutions, but is not commonly implemented). It is found in Germany, but in the context that the decision of the legislature is subject to an appeal to the federal constitutional court. Only in the Netherlands does the judiciary play no role. The legislature considers any electoral disputes as part of the process of examining and accepting the credentials of its newly elected members.

Who has the right to challenge a declared election result? Predominant practice casts this net widely: In broad terms, anyone able to vote in the election can file a challenge to the result. Only Bulgaria and Spain are more restrictive, giving this right only to electoral participants — candidates and parties.

### ***What are the global lessons?***

The histories and political cultures of these 12 democracies span a very wide spectrum. Nonetheless, several common themes about organizing and counting credible and legitimate democratic elections clearly emerge. It is fundamental that those responsible for the policy and overall direction of electoral processes fearlessly ensure a level electoral playing field. Effective election implementation and organization is a professional, executive function. It is rarely appropriate for political parties or individual candidates who are contestants in the electoral process to have any role in running elections. Transparency of the electoral process for candidates, political parties and citizens is essential to building and maintaining trust. And when serious disputes do arise — which is inevitable given what can be at stake in national elections — they are resolved by an independent judiciary.

### ***What are the lessons for the United States in the context of concerns over certification?***

The phrase “certification of results” does not appear in the electoral code of any of the 12 countries studied. None set aside a separate step for a separate body or individual to officially check and confirm results. Instead, results are declared by the election officials, and then any challenges to their work, to the accuracy of their math, or to the fairness of their procedures, are decided in court.

In all but two of the 12 countries studied, political parties have no role at all in the declaration of results, aside from their right to observe the phases of counting and to challenge results in court. The exceptions are Bulgaria, where the National Election Commission, a body comprised of representatives nominated by the parties in the legislature, is responsible for declaring results; and Poland, where the National Election Commission is composed of a mixture of judges and party representatives.

The party-based model used in Bulgaria — and in many U.S. states — was common in the first elections in Central and Eastern European countries following the fall of the Berlin Wall. The level of distrust in society and the legacy of secret policing from the preceding years of Soviet

domination meant that it was not possible to find electoral administrators anywhere in society who would be generally trusted as independent, the result of which was the adoption of a 'mutual policing' approach. The use of this system is in decline in the region, and is essentially unknown elsewhere in the democratic world, other than in the United States.

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Fig. 1: Country Details: Determining Election Results

	<b>Electoral Management Model</b>	<b>Result Determination Process</b>	<b>Provision in:</b>
Australia	Independent (non-party)	<p>Election officials in each locality conduct first stage of count. Candidates may appoint scrutineers to be present.</p> <p>Results and materials from each locality centralized. The Returning Officer, the responsible electoral official, calculates first count and conducts further stages of count to exclude candidates as required by the preferential electoral system. Candidates may appoint scrutineers to be present.</p> <p>Returning Officer may conduct recount on own initiative or if requested by a candidate. Candidates may appoint scrutineers to be present.</p> <p>Returning Officer declares result. Any subsequent challenge may be lodged with the High Court sitting as the Court of Disputed Returns.</p>	Electoral law
Canada	Independent (non-party)	<p>Election officials at each polling station conduct count. Candidates may appoint representatives to be present.</p> <p>Results and materials from each polling station centralized. The Returning Officer, the responsible electoral official, conducts verification and calculates result. Candidates may appoint representatives to be present.</p> <p>An automatic recount supervised by a judge takes place if majority less than 0.1% of votes cast. Any candidate or any</p>	Electoral law

		<p>elector may seek a recount on grounds of incorrect inclusion/exclusion of votes or incorrect tabulation, but is liable for costs if elected candidate remains unchanged. Candidates may appoint representatives to be present.</p> <p>Returning Officer declares result.</p> <p>Any subsequent challenge is made to the provincial superior court or the Federal Court. Grounds are restricted if:</p> <ul style="list-style-type: none"> <li>• an elected person was ineligible as a candidate, or</li> <li>• there were irregularities, fraud or corrupt or illegal practices which affected the result.</li> </ul>	
India	Independent (non-party)	<p>Results and materials from each polling station centralized. The Returning Officer, the responsible electoral official, conducts count. Candidates may appoint counting agents to be present.</p> <p>Returning Officer may conduct a recount in line with subsidiary rules.</p> <p>Returning Officer declares result.</p> <p>Any subsequent challenge is made to the High Court and may then be appealed to the Supreme Court.</p>	Electoral law and subsidiary rules
South Africa	Independent (non-party)	<p>Election officials at each polling station conduct count. Candidates may appoint party agents to be present.</p> <p>Results and materials from each polling station centralized. The official designated by the Independent Electoral Commission (the central EMB) conducts count and calculates result. Candidates may appoint party agents to be present.</p> <p>‘Any interested party’ may lodge an objection ‘material to the determination of the result’. IEC decides this. Appeal</p>	Electoral law

		<p>may be lodged with the Electoral Court (which has the status of Supreme Court).</p> <p>IEC declares result. It is not required to await any appeal decision of the Electoral Court.</p>	
U.K.	Governmental	<p>Results and materials from each polling station centralized at constituency level. Returning Officer, the responsible electoral official, conducts count. Candidates may appoint counting agents to be present.</p> <p>Returning Officer (a local government official) may conduct a recount requested by a candidate or candidate's election agent unless she/he considers this unreasonable.</p> <p>Returning Officer declares result.</p> <p>A challenge to the result may be lodged with the High Court by a candidate or an elector.</p>	Electoral law and annexed rules
France	Mixed	<p>Election officials at each polling station conduct count, assisted by literate electors who have been identified by the election officials. Candidates and their representatives may be present.</p> <p>Results from polling stations centralised at the préfecture by a commission de recensement appointed by the préfet composed of three judges, one departmental councillor, and one civil servant. There is no provision for candidates' representatives to be present during verification.</p> <p>The commission de recensement declares the result. Candidates' representatives may be present before the declaration and may enter complaints.</p> <p>There are no provisions for recounts.</p>	

		A challenge to a result may be lodged with the Constitutional Council by a candidate or an elector.	
Germany	Governmental	<p>Election officials at each polling station conduct count.</p> <p>Results and materials from each polling station collected and totalled at municipality level by the mayor or her/his appointed official, who transmits the totals to the Constituency Returning Officer (a civil servant appointed by the relevant Land government).</p> <p>The Constituency Electoral Committee (composed of the Land Returning Officer and six electors) declares the constituency result and establishes constituency totals for the list election. It sends these to the Land Returning Officer (a civil servant appointed by the Land government).</p> <p>The Land Electoral Committee (composed of the Land Returning Officer, two judges and six electors) establishes Land totals for the list election and sends these to the Federal Returning Officer (a federal civil servant).</p> <p>The Federal Electoral Committee (composed of the Federal Returning Officer, two judges and eight electors) establishes the federal results of the list election. The Federal Returning Officer declares these results.</p> <p>The Federal Returning Officer, a Land Returning Officer, or any elector may lodge an appeal with the Electoral Scrutiny Board, a nine-member cross-party standing committee of the legislature, the decision of which is submitted to the full legislature for ratification. The decision of the</p>	Federal constitution, electoral laws and federal regulations under electoral law

		legislature is subject to an appeal to the Federal Constitutional Court.	
Netherlands	Mixed	<p>Election officials at each polling station conduct count. Electors may be present.</p> <p>Results and materials from each polling station collected and totalled at municipality level by the mayor or her/his appointed official, who transmits the totals to the district electoral committee (composed of the mayor and four government officials).</p> <p>The district electoral committee validates the municipal totals. Electors may be present. It then transmits them to the central electoral committee (composed of seven independent experts appointed by the monarch).</p> <p>The central electoral committee totals the results received from all district electoral committees. Electors may be present.</p> <p>The central electoral committee may conduct a recount on its own initiative or in response to a reasonable request.</p> <p>The central electoral committee declares the result.</p> <p>The legislature considers any electoral disputes as part of the process of accrediting its newly elected members. The judiciary has no role in this.</p>	Electoral law
Spain	Mixed	<p>Election officials at each polling station conduct count. The public may be present. Results and materials from each polling station are sent to the provincial electoral commission (composed of three judges and two independent academics).</p> <p>The provincial electoral commission verifies and totals the results from</p>	Electoral law

		<p>polling stations. Candidates and their representatives may be present and may lodge complaints, on which the provincial electoral commission rules.</p> <p>A candidate or representative may lodge an appeal against this ruling, which is decided by the central electoral commission (composed of eight judges and five independent academics). Candidates and their representatives may be present.</p> <p>The provincial election commission declares the result. The central election commission subsequently formally publishes the result.</p> <p>A challenge to the result may be lodged with the Administrative Chamber of the Supreme Court by a candidate, a candidate's formal representative, or a political party.</p>	
Bulgaria	Independent (party-based)	<p>Election officials at each polling station conduct count. Candidates, one representative per candidate, observers and journalists may be present.</p> <p>Results and materials from each polling station are sent to the District Electoral Commission, the members of which are agreed by consensus at a consultation meeting of political parties and coalitions convened by the governor, and then confirmed by the National Electoral Commission (if there is no such consensus, the National Electoral Commission nominates all the members). The District Election Commission verifies and totals results. Electors may be present.</p> <p>The District Electoral Commission declares the election of any independent candidates.</p>	Electoral law

		<p>The District Electoral Commission then transmits the results to the National Electoral Commission, which verifies and totals them.</p> <p>The National Electoral Commission declares the election of party candidates.</p> <p>A challenge to the result may be lodged with the Constitutional Court by a candidate or a political party.</p>	
Czech Republic	Governmental (formerly independent and party-based)	<p>Election officials at each polling station conduct count.</p> <p>Results and materials from each polling station are sent to the Czech Statistical Office, which collects and totals them, and sends them to the State Election Commission (a permanent body with ten members, chaired by the Minister of the Interior and composed of officials from government departments and public authorities). There is no provision for the public or political parties to be present.</p> <p>The State Election Commission declares the result.</p> <p>A challenge to the result may be lodged with the Supreme Administrative Court by a political party or an elector.</p>	Electoral law
Poland	Independent (mixed party and non-party)	<p>Election officials at each polling station conduct count. Candidates, their representatives, and citizen observers may be present.</p> <p>Results and materials from each polling station are sent to the District Electoral Commission (a temporary body chaired by a commissioner appointed by the National Electoral Commission on the nomination of the Ministry of the Interior, and composed also of four to ten persons with a law degree), which verifies and totals them.</p>	Electoral law

		<p>The District Electoral Commission then transmits them to the National Electoral Commission (composed of two judges and seven representatives of political parties), which verifies and totals them. Electors may be present.</p> <p>The National Electoral Commission publishes the totals of votes cast and the party lists eligible to receive seats, and sends these to the District Electoral Commission. The District Electoral Commission determines and publishes the list of elected candidates, and sends this to the National Electoral Commission. The National Electoral Commission verifies this list.</p> <p>A challenge to the result may be lodged with the Supreme Court by a political party or an elector.</p>	
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