

DEMOCRACY VOLUNTEERS

NETHERLANDS MUNICIPAL
ELECTIONS 2022

Final Report



Democracy
Volunteers

the election observers



Our mission is to improve the quality of democratic elections, by advising those who legislate for, administer and oversee elections, to enhance them for the benefit of voters.

We aim to do this by attending elections and empirically reporting our findings in an accessible way through statistical analysis and interlocutor meetings to support this objective. We do this through a strong methodology, based on the international standards for election observation as set out by OSCE/ODIHR and others.

We maintain strict impartiality and require our observers to abide by international standards, as well as the relevant local legal framework, when acting as our observers.

We aim to report on our observations in a constructive and encouraging way to benefit the delivery of democracy and to benefit the electorate as a whole.



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democracyvolunteers.org

Netherlands Municipal Elections

16th March 2022

Final Report on Election Observation

Objectives

1. To objectively observe the election process in The Netherlands.
2. To advise election officials on the results of the observation for the improvement of electoral practice.
3. To support these election bodies with constructive feedback on areas of concern so that they may consider remedial action.

Democracy Volunteers in The Netherlands

Democracy Volunteers have previously observed elections in The Netherlands, namely:

1. European Parliamentary Elections in The Netherlands 23/05/19¹
2. Netherlands Provincial and Water Board elections 20/03/19²
3. Netherlands Municipal Elections & Advisory Referendum 21/03/18³

The March 2022 deployment was the fourth deployment of Democracy Volunteers observers to The Netherlands. Our experience of observing in the country has led us to assess two aspects of the electoral process more closely during the 2022 deployment namely proxy voting and deciding the validity of a ballot paper at the counting stage.

Democracy Volunteers deployed 14 observers across The Netherlands in these elections. As a member of the Global Network of Domestic Election Monitors (GNDEM), Democracy Volunteers has an agreed code of conduct for observers. All observers are trained and briefed before deployment on polling day, and they sign the organisation's code of conduct before observing. Our observer teams observe in teams of two, completing an online form once they have made their observations in each polling station.

Funding

All 14 observers deployed to observe the Dutch municipal elections did so at their own cost or were supported from the general funds of the organisation. No finance was sought, or received, from any party or organisation, whether internal or external to The Netherlands, for the observation or this final report. Our observations are wholly independent of any institution.

¹ <https://democracyvolunteers.org/2019/07/15/final-report-european-parliamentary-elections-uk-netherlands-23-05-19/>

² <https://democracyvolunteers.org/2019/05/16/final-report-netherlands-provincial-and-water-board-elections-20-03-19/>

³ <https://democracyvolunteers.org/2018/04/04/final-report-netherlands-municipal-elections-advisory-referendum-21-03-18/>

Executive Summary

The elections, based on the sample of 100 polling stations we observed, were very well run by elections staff. Our observation team of 14 observers, in overwhelming majority of cases, were impressed by the conduct of staff throughout polling day.

Family Voting, where one voter oversees, directs, or colludes, with another in a polling booth, was identified by our observers at 14% (14 of 100) polling stations. Family Voting is the practice by which one member of a family influences or guides another on the way to cast their vote and is described by the OSCE/ODIHR as an 'unacceptable practice'⁴. We also consider it an unacceptable aspect of elections as it invariably affects women, younger and older voters more than average. Whilst overall cases of family voting were relatively low, Democracy Volunteers would encourage a proactive approach by staff to prevent such occurrences taking place which did occur in some cases, though not always. Indeed, on some occasions, staff did intercede to prevent it. Generally, our observers were greeted warmly by elections staff wherever they visited polling stations and counting. The team also held constructive meetings with interlocutors, such as election administrators, in the days preceding polling day. In total, the observation team attended 100 polling stations across 14 municipalities.

There are two areas of concern that the observer team would highlight.

1. Proxy voting is widespread and legal in The Netherlands, with many voters signing their vote, on polling day, to another member of their family to cast on their behalf. This can constitute a large percentage of the electorate not casting their own vote. Our observations suggest that most of this proxy voting is conducted by men, (61%) which might suggest some voters give their proxy under some degree of duress – we would encourage the Dutch government to actively consider updating the rules on proxy voting to encourage more voters to attend polling stations to limit the potentially negative impact this might have.
2. The methodology of the adjudication of completed ballots, in polling station counts, needs greater transparency as some votes may be excluded in some jurisdictions that may not in others, this could lead to more/less officious decisions having an impact on the result of the election.

⁴ <http://www.osce.org/>

Observer Team



Dr John Ault FRSA FRGS (United Kingdom) was the Head of Mission for the Dutch Election Observation Mission and is the Executive Director of Democracy Volunteers.

John has worked in elections throughout the UK, Europe, and the United States since the 1980s. He has observed on behalf of the OSCE/ODIHR and the UK Parliament's CPA in parliamentary elections as wide-ranging as Kazakhstan and the Isle of Man. He is also a former chair of the UK's Electoral Reform Society and has been elected to local government in the UK and the UK's South-West Regional Assembly.

He has observed numerous elections for Democracy Volunteers, including Swedish and Norwegian parliamentary elections, the UK general elections in 2017 and 2019, the Finnish presidential and parliamentary elections in 2018 and 2019 as well as Dutch elections in 2017, 2018 and 2019. He has also been an academic consultant about electoral and parliamentary reform in Moldova. He is also an electoral expert for the Commonwealth Parliamentary Association.

He is an Honorary Research Fellow at the University of Exeter and has previously lectured at Canterbury Christ Church University and the University of Manchester. He specialises in elections and campaigns and has published several books on the subject, including his doctoral thesis on electoral campaigning.



Harry Busz (United Kingdom) is Democracy Volunteers' fulltime Head of Operations. He was Deputy Head of Mission for the deployment in The Netherlands.

Harry is a graduate in Human Geography at Cardiff University and an MA in International Relations from Exeter University and is currently researching for his PhD in Politics at Newcastle University. His research focuses on electoral integrity and the role of international, regional, and domestic observer groups in improving electoral practices across the OSCE region.

He has participated in multiple domestic and international observations such as the 2019 local elections in Northern Ireland, the provincial and Water Board elections in The Netherlands, national elections in Austria, as well as being election coordinator for the 2020 USA general election and 2019 UK general election, and Ireland's 2020 general election.

The team also included 12 other observers, including former UK Member of the European Parliament, Julie Ward as well as Portuguese, UK and USA local government elections officers, lawyers, as well as members of the Democracy Volunteers board.



Image 1 The Democracy Volunteers team of 14 observers received pre-deployment training, attended advanced voting in The Hague and received in-person training before deployment across the country.

Credits

We would like to thank the Ministry of the Interior and Kingdom Relations, The Kiesraad, and local municipalities in The Netherlands, and their election officials, for their assistance in making our preparations for deployment to The Netherlands possible. In addition, we would like to thank all the election officials, parliamentarians, staff, campaigners, and agents who gave up their time to talk with us during the observation, including those conducting their duties on polling day and at counting venues.

We would also like to thank our team of observers who worked long hours and travelled extensively in The Netherlands to attend as many polling stations and counting centres as possible.

Municipal Government in The Netherlands

Municipal government in the Netherlands is the most regional level of government. At the time of writing there are 344 municipalities making up the 12 provinces in the Netherlands, with these provinces answering to the central state government⁵. At these elections, 333 municipalities held elections to their municipal councils. Municipal authorities are responsible for regulating and administering the internal affairs of the municipality⁶. This includes ensuring that acts of parliament are adopted and effectively implemented within their municipality and reporting on this implementation to the provincial council and central government. In addition to implementing these national laws, municipalities also formulate and develop their own policy and bye-laws and ensure they are adopted and implemented. Municipalities are composed of three parts: the mayor, the municipal council, and the municipal executive. The mayor chairs the two latter organisations and together the three of them hold legislative power in their municipality.

The mayor is appointed by the municipal council and is primarily responsible for overseeing the council and the municipal executive, ensuring that correct political processes are followed in both. This involves ensuring the timely adoption and implementation of municipal policy and the resulting orders and decisions and proper coordination between those involved; proper cooperation between the municipality and other municipalities and government authorities; the quality of public participation procedures; the handling of notices of objection; and the handling by the municipal authority of complaints⁷. Being the chair of the municipal council and municipal executive, the mayor is the face of the municipality and is arguably the most directly accountable single figure in local government⁸. As such, it is also the responsibility of the mayor to ensure that the municipality remains accountable to the citizens it represents; this accountability is partially achieved through the publishing of the Citizens Annual report in each municipality, a report that primarily details the quality of public participation procedures⁹. The mayor is also head of public services like the fire brigade and police, and as such he is charged with maintaining public order and can sanction the legitimate use of force to ensure public order is maintained.

The municipal council is one of the two groups within the municipal government that works with the mayor to oversee the smooth functioning of the municipality. The size of the council in each municipality varies depending on the number of citizens they represent, and their main role is the adoption of bye-laws¹⁰. The council oversees the development of proposed bye-laws and the adaptation of existing ones to best suit the current needs and interests of their citizens. Additionally, Section 154¹¹ of the Municipalities Act states that the council also has the legitimate authority to impose penalties for any infringements of the bye-laws that have been adopted, including the detention of citizens of that municipality. Due to the role

⁵ <https://organisaties.overheid.nl/Gemeenten/>

⁶ Municipalities Act, section 108, subsection 1, p: 59.

⁷ Municipalities Act, section 170, subsection 1, p: 9.

⁸ Figee, E. Eigeman, J. & Hilterman, F. (2008) Local Government in The Netherlands. The Hague. pp. 33.

⁹ Municipalities Act, section 170, subsection 2, p: 90.

¹⁰ Municipalities Act, section 147, subsection 1, p: 72.

¹¹ p: 76.

the municipal council plays in determining the laws within their municipality, changes have been made in recent years that make the council more accessible and more accountable to the citizens it represents. Whilst councils now have more power over what local issues they research and act on¹², citizens are encouraged to attend and speak at committee meetings in order to voice concerns they may have about their municipality and any plans the council may have. Rooted in the Dutch tradition of political participation and cooperation, this initiative aims to involve citizens that are to be impacted by the decisions the council takes at a much earlier stage in the process of developing policy. The municipal council also oversees the mayor, and whilst they cannot dismiss the mayor, they can restrict their powers. For example, in an event where the mayor has chosen to exercise emergency powers (like the use of force to disperse crowds), the council has the authority to overrule the mayor's decisions at their next meeting. Conversely, the municipal council can also support the power of the mayor and the directions they take, especially when these actions are in the interests of securing public order. In sections 151b and 151c¹³, the Municipalities Act states that the council may issue the mayor the power to close certain areas/individual buildings within a municipality and increase surveillance to help maintain public order. Finally, the council is also responsible for managing the municipal budget, ensuring that it is balanced in structural and real terms; the annual budget proposal must be approved each year by the provincial executive.

The final component of the municipal government is the municipal executive. Again, chaired by the mayor, members of the executive, sometimes referred to as the aldermen, oversee the implementation of the decisions taken by the municipal council. The municipal executive is a smaller group than the council, again, with their number dependent on the size of the municipality, their numbers must not be more than 20% of the council, but they must have a minimum of two members. Arguably concerned with the more mundane aspects of the municipality¹⁴, members of the executive are also assigned certain areas of policy to research and report to the municipal council on, tasked with promoting the interests of citizens about that particular area of policy¹⁵. However, the municipal executive does not act on their authority, with all the decisions and actions they take being on the authority of the municipal council¹⁶.

At the national level, elections are monitored by an organisation known as the Kiesraad, the Dutch Electoral Council¹⁷. An independent election committee led by a small, non-partisan, group of just seven members who ensure that elections are held to the correct standards and are constantly being adapted ensuring the "fairness, transparency and reliability of elections and the electoral process"¹⁸. The Electoral Council is responsible for: determining official election results; registering political parties that wish to take part in national elections;

¹² Figuee, E. Eigeman, J. & Hilterman, F. (2008) Local Government in The Netherlands. The Hague. pp. 31.

¹³ p: 74

¹⁴ Municipalities Act, section 160, subsection 1, p: 87.

¹⁵ Figuee, E. Eigeman, J. & Hilterman, F. (2008) Local Government in The Netherlands. The Hague. pp.30.

¹⁶ Municipalities Act, Section 169, p: 89.

¹⁷ The Dutch Electoral Council is often referred to as the central electoral committee, the forerunner to the Electoral Council. Note that the Electoral Council itself is a central electoral committee.

¹⁸ Dutch Electoral Council: Organisation and responsibilities. The Hague 2009. p: 4.

and checking the lists of candidates in elections to the Lower House and the European Parliament. The council serves as a point of reference for civil servants, political parties and citizens about election law and elections, answering any questions which citizens, civil servants, political parties, and administrators may have about the election law and elections¹⁹. Finally, the council also advises the government and Parliament on law surrounding Dutch elections and how elections should be organised. The reference to the electoral committee being an advisory board begins to indicate the limited authority of the Electoral Council. The Elections Act specifies this, stating that the Electoral Council shall advise the government, the Lower House and the Upper House on election law or the running of elections²⁰. Whilst the electoral council highlights that its responsibilities are “legal tasks”²¹, throughout reports the council has published, it is indicated that it operates in an entirely advisory capacity, issuing recommendations to the Minister of the Interior and Kingdom Relations on how elections should be run and could be improved. The minister may request recommendations from the Electoral Committee on how to adapt the election process, but any recommendations that are adopted appear to then be on the authority of the Minister of the Interior and Kingdom Relations.

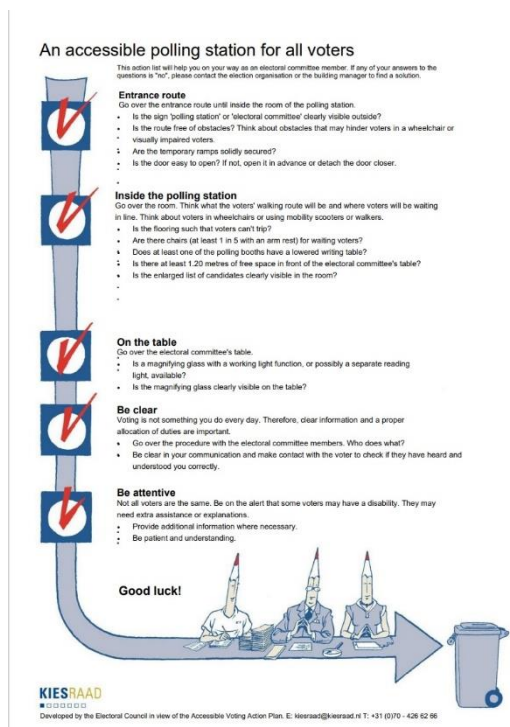


Image 2 Access to polling stations guidance

The Ministry of the Interior and Kingdom of Relations (BZK) is one of eleven government ministries. The department is responsible for the formulation and preparations of legislation and the supervision of its implementation²². Specifically, the ministry oversees the following areas: democracy and the rule of law, public administration, the quality of personnel and management within central government, the Dutch constitution and the system of constitutional government, the partnership with Curaçao, St Maarten and Aruba, and public housing and government buildings.

Guidance on the accessibility of voting stations is arguably limited. Whilst provided, instructions issued to electoral committees rely on the municipalities and the common sense of the electoral committee members. The document titled *Accessibility and Assistance to voters*²³ provides the following instructions: “polling stations and polling

booths must be accessible to all voters, the location of a polling station must be clear, the location of the polling station must be accessible to all voters, there must be no obstacles making it difficult for disabled voters to enter, aids for visually impaired voters must be

¹⁹ Dutch Electoral Council: Organisation and responsibilities. The Hague 2009. p: 3.

²⁰ Elections Act, Section A3, p: 1.

²¹ Annual report Electoral Council 2020, The Hague, p: 5.

²² <https://www.government.nl/ministries/ministry-of-the-interior-and-kingdom-relations>

²³ Government Factsheet – ‘Accessibility and assistance to voters’ Version 1.0

available". The lack of specificity in the documents given to electoral committee members is reflective of the information found in the Elections Act²⁴. Section J4, subsection 2 states that: the municipal executive shall ensure that all of the municipality's polling stations are situated, equipped and furnished in such a way that voters with physical disabilities can cast their vote without assistance as far as possible²⁵. The procedure for failing to provide the necessary support to disabled voters is equally vague with section J4, subsection 3 of the Elections Act stating that: if the municipal executive fails to comply with subsection 2, it shall inform the municipal council of the reason. Whilst indicating an awareness of the limitations of those citizens with disabilities, these instructions are minimal and require the electoral committee members to fully consider the range of disabilities that may prevent citizens from accessing the polling station and the polling booth and casting their ballot. The nature of these instructions may lead to an inaccessible polling station and subsequently discourage eligible citizens from voting.

Similarly, there is limited information available to electoral committee members that states how they can assist voters inside polling stations. Again, the document titled *Accessibility and Assistance to voters* provides the following instructions:

"voters who are unable to vote independently because of a physical disability may be accompanied in the polling booth by a person of their choice. This escort (an electoral committee member or a person of the voter's own choice) may assist the voter in casting their vote. Voters who are unable to vote independently because of a physical disability may be accompanied in the polling booth by a person of their choice. This escort (an electoral committee member or a person of the voter's own choice) may assist the voter in casting their vote. Voters qualifying for this exception are: visually impaired voters; voters with a different physical disability, including voters suffering from a disease such as Parkinson's. All voters may ask for information on the vote and the use of the ballot paper. Information to the voter is provided outside the polling booth. Mentally disabled or illiterate voters or voters with insufficient command of the Dutch language will also receive this information if so desired. They will receive this information and assistance outside the polling booth only"²⁶.

Similarly, the election act provides limited information on how the electoral committee can assist voters. Section J28 states: If the electoral committee observes that a voter requires help because of his physical condition, it shall allow him to avail himself of assistance²⁷. The elections act indicates a reason for the limitations of assistance that may be offered to voters in section J36²⁸, which highlights a concern that voters may potentially be influenced by others should they receive assistance. The lack of information provided by national policy is potentially accounted for by section, J4, subsection 5 of the Elections Act that states: the mayor shall be responsible for equipping the polling station and shall if necessary designate

²⁴ p: 23.

²⁵ p: 23.

²⁶ Government Factsheet – 'Accessibility and assistance to voters' Version 1.0

²⁷ Elections Act p: 29.

²⁸ Elections Act p: 29.

persons to assist the electoral committee. Whilst this designates accountability at the municipal level thus arguably ensuring accessibility is ensured, the lack of instruction provided to electoral committees potentially indicates a disregard for disabled voters.

A 2017 study into the experiences of individuals with disabilities who voted in the 2017 Dutch National election found that almost three quarters of the voters with learning disabilities highlighted that accessibility could be improved²⁹. The report indicated the following recommendations: allowing assistance in the voting booth and allowing greater assistance from the individuals' own network in the approach to national elections; information about the election, the candidates and the process of voting should be tailored to those citizens with learning disabilities; the use of pictures or logos on the voting paper to make the ballot paper more manageable, the distribution of texts simply detailing the parties and their manifestos; and producing videos about the parties, using plain language, that provide information about voting and elections. Encouragingly the report also indicated that over half of citizens with physical disabilities had no issue with voting and stated there were no solutions to improve the process. Despite this, others suggested increasing the ease of the process of postal voting, the use of computers in the voting booth, online voting, and the translation of the parties' manifestos into appropriate languages. The result of this report arguably highlights a failure to consider the complexity of the voting procedure for those with physical and learning disabilities. Whilst the option of voting by proxy and by post may provide an adequate solution to these issues, there is an argument to be made for the need for greater consideration of how the election and voting process can be adapted to suit all eligible voters.

Democracy Volunteers experience of Proxy Voting in The Netherlands

Proxy voting is a method of voting by which one elector can ask another elector to cast a ballot in their absence and on their behalf. Proxy voting is defined by the OSCE Election Observation Handbook (2010) as:

'Where a person receives a ballot on behalf of another person and votes on their behalf, usually with their prior knowledge. In some jurisdictions, proxy voting is permitted, providing that the proper documents have been completed³⁰.'

Although legal in many countries, proxy voting is highly vulnerable to electoral fraud, as Democracy Volunteers highlighted following the 2019 Provincial & Water Board elections in The Netherlands. This is due to the high levels of trust one must place in one's proxy, with no assurance that the proxy will act faithfully on their wishes when casting their ballot paper. Furthermore, the practice leaves an election open to issues surrounding the potential buying of votes by fraudulent actors and vote gathering, although there is no suggestion of this through our observations. Finally, the use of proxy votes necessarily ends a citizen's ability to cast a secret ballot, which is crucial to abiding by Article 25 of the International Covenant on Civil and Political Rights which seeks to protect the 'free expression of the will of the

²⁹van Hees, S. Boeije, H. & Putter, I. (2017) Voting barriers and solutions: the experiences of people with disabilities during the Dutch national election in 2017

³⁰ OSCE/ODIHR (2010) Election Handbook. 6th edn. Available online at :<https://www.osce.org/odihr/elections>

electors³¹.’ As such, proxy voting can be seen to undermine the secrecy and equality of any vote.

In the Dutch context, voters are eligible to appoint a proxy to vote on their behalf by signing the reverse of their voting pass (Stempass) and simply handing this to their proxy, in addition to a copy of the voter’s ID card. Through this process the voter’s pass ‘has thus been converted into a certificate of authorisation³².’ In addition to this, the proxy must supply an identity document belonging to the voter, although no prior application, or justification, is required to cast a ballot in this way. Proxy voting can also be requested prior to polling day, by requesting a proxy certificate is sent to their proxy from the local municipality. Each proxy is allocated two authorisations in any given election, contributing to the liberal nature of this process³³. Throughout the population, eighty-four per cent of voters believe proxy voting should be allowed, with only nine per cent being against it³⁴.

During previous elections across the Netherlands in 2021, temporary legislation was enacted to allow a proxy to vote on behalf of up to three other electors. This measure was revoked prior to this election, meaning each proxy could act on behalf of two other electors.

The frequency of proxy voting in The Netherlands has been historically high with fluctuations in the prevalence between elections and between different economic, social, and religious groups³⁵. As noted by the OSCE, after attending the 2017 & 2021³⁶ parliamentary elections, the way this allows voters to participate in elections is ‘at odds with the OSCE commitments and other international standards³⁷.’

Data collected by our observer team at these elections show that 61% of those acting as proxies were male, with just 39% being cast by females. This imbalance is a cause for concern, as the wide extension of proxy voting could lead to Family Voting with some sections of the electorate coerced or intimidated into giving their signed Stempass and copy of their ID to a family member, friend, or campaigner.

More about Proxy Voting in The Netherlands

In the Netherlands, there are two methods of voting by proxy, the first, the written proxy, is longer and more administrative, and requires the voter to nominate their proxy five days before the election takes place, both the voter and the proxy must sign the application. Provided the application is accepted, an official certificate of authorisation is issued allowing the nominated proxy to vote on behalf of that person in that election. When an application

³¹ ICCPR (1966) International Covenant on Civil and Political Rights. Available online at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

³² Ministry of the Interior and Kingdom Relations, Section L14 p.57, 2019

³³ Jacobs, B. & Pieters, W. (2009) Electronic Voting in the Netherlands: from early Adoption to early Abolishment. Foundations of Security Analysis and Design V.

³⁴ Schmeets, H. (2011) Many Dutch vote by proxy. Available online at: <https://www.cbs.nl/en-gb/news/2011/09/manydutch-vote-by-proxy>

³⁵ van der Kolk, H. (2014) Over het aantal volmachtstemmen.

³⁶ OSCE (2021) The Netherlands: Parliamentary Elections. Final Report. Available online at: <https://www.osce.org/files/f/documents/d/4/493360.pdf>

³⁷ OSCE/ODIHR (2017) The Netherlands: Parliamentary Elections 15 March 2017. OSCE/ODIHR Election Assessment Mission Final Report. Available online at: <https://www.osce.org/odihr/elections/netherlands>

to vote by proxy is made in this way, the proxy does not have to live in the same municipality as the voter. The second, arguably easier and more informal of the two methods, requires both the voter and the proxy to sign the voter's voting pass on the day of polling and provide their details. The proxy voter must live in the same municipality as the voter and bring a copy of the voter's identification to the polling station. The rules and restrictions surrounding proxy voting have gradually been relaxed, despite there being an awareness of the potential for the system to be abused prior to its introduction. Minor restrictions were introduced in 1989, 1993 and 2009³⁸, which included limiting the number of votes a proxy can cast to two, but the extent of any potential abuse remains unclear due to the lack of any empirical investigation on the matter.

Voting by proxy is a tool that, in theory, enables all those who are eligible to vote, ensuring the highest potential turnout and thus arguably increasing the quality of democracy as the election results become a truer reflection of the expressed demands of the electorate. According to a 2003 study, proxy voting can increase election turnout by up to 10%³⁹. However, in 2012 the prevalence of proxy voting in the Netherlands prompted the OSCE to issue the following statement: "proxy voting should be regulated to bring the legislation more in line with OSCE commitments and other international standards for democratic elections"⁴⁰. This report highlighted the potential that proxy voting undermines the principle of anonymous voting and could result in a rise in family voting, thus potentially undermining female suffrage⁴¹. In response to this report issued by the OSCE, in 2012 the Dutch Electoral Council and the Ministry of the Interior and Kingdom Relations (BZK) started keeping a record of the number of votes cast by proxy. However, the 2022 OSCE Needs Assessment Mission Report indicated that no further restrictions or regulations have been introduced on the process of voting by proxy, despite multiple recommendations since 2012⁴².

Whilst proxy voting may have been introduced to ensure that all eligible voters are able to cast their votes, an unintended consequence of relaxing regulations surrounding the practice may be the rise of family voting. Family voting is a practice that sees the head of the household making decisions on behalf of their family. A 2016 collaborative report between the UNDP and UN Women argued that family voting can be disguised and mistaken for proxy voting⁴³. The report stated that this becomes an issue when family voting is practised with the intention of restricting the freedom of choice of other members of the family, specifically the female members. The impact of this denial may be exacerbated if the head of the family chooses to vote for a candidate or party that disregards the interests of those members of the family. Legally, the initiative to vote by proxy must come from the voter and not the proxy, any other application to vote by proxy is considered an electoral offence⁴⁴.

³⁸ Kiesraad. (2007). Advice on access to proxies and statements of support. The Hague.

³⁹ Blais, A. Massicotte, L. & Dobrzynska, A. (2003). Why is Turnout Higher in Some Countries than in Others? Ottawa: Elections Canada.

⁴⁰ OSCE. (2012). Netherlands, Early Parliamentary Elections, 12 September 2012: Final Report.

⁴¹ Elzinga, D. Kummeling, H. & Schipper-Spanninga, J. (2012) Dutch suffrage. Deventer: Kluwer.

⁴² OSCE. (2022) Netherlands, Municipal Council Elections, 16 March 2022: Needs Assessment Mission Report.

⁴³ UNDP and UN Women (2016) Inclusive Electoral Processes: A Guide for Electoral Management Bodies on Promoting Gender Equality and Women's Participation.

⁴⁴ Elzinga, D. Kummeling, H. & Schipper-Spanninga, J. (2012) Dutch suffrage. Deventer: Kluwer.

Whilst well intentioned, this does not consider how it should be determined that the initiative came from the voter, beyond the request being in their name. This lack of regulation may enable considerable abuse of the measures intended to strengthen the quality of democracy in the Netherlands, and for these violations to go unnoticed.

Despite its drawbacks, a 2010 study found that over three quarters of Dutch voters support proxy voting⁴⁵. The prevalence of proxy voting in the Netherlands and the support for this method of voting may be partially attributed to the strength of the notion of citizenship and civic duty. A 2009 report into Dutch Citizenship found that, among citizens, there is a strong understanding of and commitment to civic duties⁴⁶. Whilst this report did not make specific reference to political duties, the strength of the notion of citizenship found in this report may begin to account for the prevalence of proxy voting as voters may be more inclined to overcome limitations on their ability to vote and subsequently support policy that enables broader inclusion of eligible voters. The prevalence of proxy voting may also be worth exploring due to the high number of settled immigrants in the Netherlands. It is estimated that in 2021 there were 1.4 million immigrants in the Netherlands who had immigrated from outside the EU. In exploring proxy voting, it may be worth considering the continued practices of foreign cultural traditions in the Netherlands.

Deciding the Validity of a Ballot Paper

The process of determining the validity of a vote appears to be heavily subjective. Section N7 of the Elections Act determines that vote is invalid: if any additions have been made to the ballot paper that identify the individual whose vote it is, if the vote is not submitted on the specified ballot paper, and crucially, if the white circle has not been completely or partly filled in. This final condition of the validity of a ballot paper presents a challenge to this method of voting due to the potential subjectivity of how to determine whether or not the circle has been adequately filled in. Whilst electoral commission members would likely be required to retain some impartiality, it is perhaps optimistic to suggest that the political views of the electoral committee member counting the votes would not, in any way, influence how they determine whether the ballot paper has been filled in correctly.

VERSION 1.0

Electoral committees on 16 March 2022

The municipality will inform you of the type of electoral committee to which you have been appointed so that you can check which information is relevant to you.

Location of the electoral committee	Opening hours of the vote	Who can vote at this location?	Location for counting the votes	Municipal observer
REGULAR ELECTORAL COMMITTEE 1 fixed location.	Opens 07:30 a.m. Closes 09:00 p.m.	All voters	The votes will be counted at the same location where the votes were cast after 09:00 p.m. on 16 March.	N/A
REGULAR ELECTORAL COMMITTEE FOR VOTING ONLY 1 fixed location.	Opens 07:30 a.m. Closes 09:00 p.m.	All voters	The votes will be counted at a different location after 09:00 p.m. on 16 March.	N/A
SPECIAL ELECTORAL COMMITTEE 1 fixed location.	Open for at least 8 consecutive hours. Opening hours to be determined by the municipality. Closes not later than 09:00 p.m.	All voters	The votes will be counted at a different location OR The votes will be counted at the same location where the votes were cast after 09:00 p.m. on 16 March.	N/A
SPECIAL ELECTORAL COMMITTEE WITH RESTRICTED ACCESS 1 fixed location.	Opening hours to be determined by the municipality. Closes not later than 09:00 p.m.	Only voters permanently/temporarily residing at the location of the electoral committee.	The votes will be counted at a different location after 09:00 p.m. on 16 March. OR The votes will be counted at the same location where the votes were cast after 09:00 p.m. on 16 March.	Mandatory
MOBILE ELECTORAL COMMITTEE Multiple locations.	Opening hours to be determined by the municipality. Closes not later than 09:00 p.m.	All voters	The votes will be counted at a different location after 09:00 p.m. on 16 March. OR The votes will be counted at the same location where the votes were cast after 09:00 p.m. on 16 March.	N/A
MOBILE ELECTORAL COMMITTEE WITH RESTRICTED ACCESS Multiple locations.	Opening hours to be determined by the municipality. Closes not later than 09:00 p.m.	Only persons permanently/temporarily residing at the location of the electoral committee.	The votes will be counted at a different location after 09:00 p.m. on 16 March. OR The votes will be counted at the same location where the votes were cast after 09:00 p.m. on 16 March.	Mandatory
CLOSING OF ELECTORAL COMMITTEE				
<ul style="list-style-type: none"> The electoral committee will close not later than 09:00 p.m. Any voters waiting in line at 09:00 p.m., at the electoral committee or at the entrance, may still cast their votes. One of the electoral committee members will establish the end of the line at 09:00 p.m. 				

Image 3 Guidance for Election Committees in polling stations

⁴⁵Schmeets, H. (2010) Political Participation Social Cohesion: Participation, Trust and Integration. The Hague.

⁴⁶Hurenkamp, M. Tonkens, E. & Duyvendak, J. (2009) Citizenship in the Netherlands: locally produced, nationally contested.

Chapter N, specifically section N6, of the Election Act states: “the electoral committee shall determine: the number of votes cast for each candidate and the sum of these votes. The electoral committee shall also determine: the number of blank votes and the number of invalid votes. The sum of the numbers of votes cast for candidates, blank votes and invalid votes is the number of votes counted”⁴⁷. This section indicates that all votes should be kept and none should be disposed of before or after the count. Section N9 states that after the vote, blank and invalid ballot papers should be sealed in separate packets and sent to the municipal electoral committee along with the valid votes⁴⁸. For clarity, each polling station has an electoral committee, according to the Election Act, these electoral committees count their votes and report to their principal electoral committee which oversees each municipality/electoral district (depending on the type of election). Once these numbers have been collated, the principal electoral committees report to the central electoral committee that determines the outcome of the election. However, the Electoral Act does not explicitly indicate whether invalid votes are considered or checked again after the initial count.

The process of determining the validity of votes is further called into question by the differences as to where the counting of the ballots takes place. In regular early voting committees, special early-voting committees, special early-voting committees with restricted access, mobile early voting electoral committees, and mobile early voting electoral committees with restricted access, counting is done by the municipal election committee⁴⁹. As a municipal electoral committee is responsible for multiple electoral committees, this suggests that the count takes place at a different location than the one where the vote is cast. However, in regular electoral committees’ votes are counted at the same location that votes were cast and in regular electoral committees for voting only, voting takes place at a different location than the vote is cast⁵⁰. In special electoral committees, special electoral committees with restricted access, mobile electoral committees and mobile electoral committees with restricted access, counting may either take place at the same location that the votes are cast or a different one⁵¹. These discrepancies are not specifically acknowledged in the Electoral act, as such it may be assumed that the invalid and blank votes should be transported with the valid votes if the count is taking place in a different location to where the vote took place.

The Elections Act indicates that at no point in the casting or counting process should the invalid or valid votes be disposed of. In section N11, subsection 1, the Elections act states that the sealed packets containing both valid and invalid ballots are to be sent to the mayor of the Hague⁵². According to Section N12, subsection 4, the mayor will keep them for three months after the election and destroy them thereafter unless they are requested as evidence in a criminal investigation or in an investigation of potential violations of the Elections Act⁵³.

⁴⁷ Elections Act, p: 39.

⁴⁸ Elections Act, p: 40.

⁴⁹ From document: “Electoral committees on 14 and 15 March 2022”.

⁵⁰ Taken from: “Electoral committees on 16 March 2022”.

⁵¹ Taken from: “Electoral committees on 16 March 2022”.

⁵² Elections Act, p: 40.

⁵³ Elections Act, p:41.

Methodology

The mission deployed in two phases: an initial longer-term team of 4 was in The Netherlands for one week around the election, whilst an additional 10 short-term observers (STOs) deployed to The Netherlands for polling day and the days immediately preceding and following polling day.

The core team conducted interviews with interlocutors both before and after polling day (see Appendix). These meetings included individuals from the campaigns, regulatory bodies and election administrators and were held to assess the electoral process from multiple perspectives. This qualitative work aided the team in establishing the local political context of the election, in addition to clarifying the local electoral and operational processes surrounding polling day.

On polling day, the wider team attended polling stations across several local municipalities in addition to attending the verification and counting process at the end of polling day and the next day where applicable. The teams also attended central counting venues in some areas, where this took place. The observation of each polling station was conducted in pairs to allow for objective observation and real-time verification of findings. Observers then agreed their findings for each polling station before submitting the data.

The observation of each polling station generally took around 30 to 45 minutes, with observers ensuring that they witnessed the entire process, from the greeting of voters at the door by staff, to the casting of the ballot.

The municipalities observed were:

- Alphen
- Amsterdam
- Arnhem
- Delft
- Den Haag
- Gouda
- Leiden
- Nieuwegein
- Nijmegen
- Rijswijk
- Rotterdam
- Utrecht
- Waddinxveen
- Zoetermeer

In advance of Polling Day

The core team interviewed several staff at the municipalities in the areas that were intended to be observed. These were especially useful in a context where election observation is new to staff in those municipalities.

In these meetings Democracy Volunteers explained the process of observation and how a deployment of a team of observers functions. All the staff were welcoming of the process of independent non-partisan observation and facilitated our observation by providing comprehensive lists of polling stations and other relevant information.

Polling Day Observation

The organisation of polling stations was extremely well run across The Netherlands, with low levels of Family Voting being observed. Staff were very well-trained, and Presiding Officers were able to follow local electoral laws and additional guidance surrounding COVID-19. Polls were open from 8am to 9pm with observers being present at the opening and close of polls.

In The Netherlands, polling stations are large venues, such as the main hall of the city hall but also in public buildings such as schools.

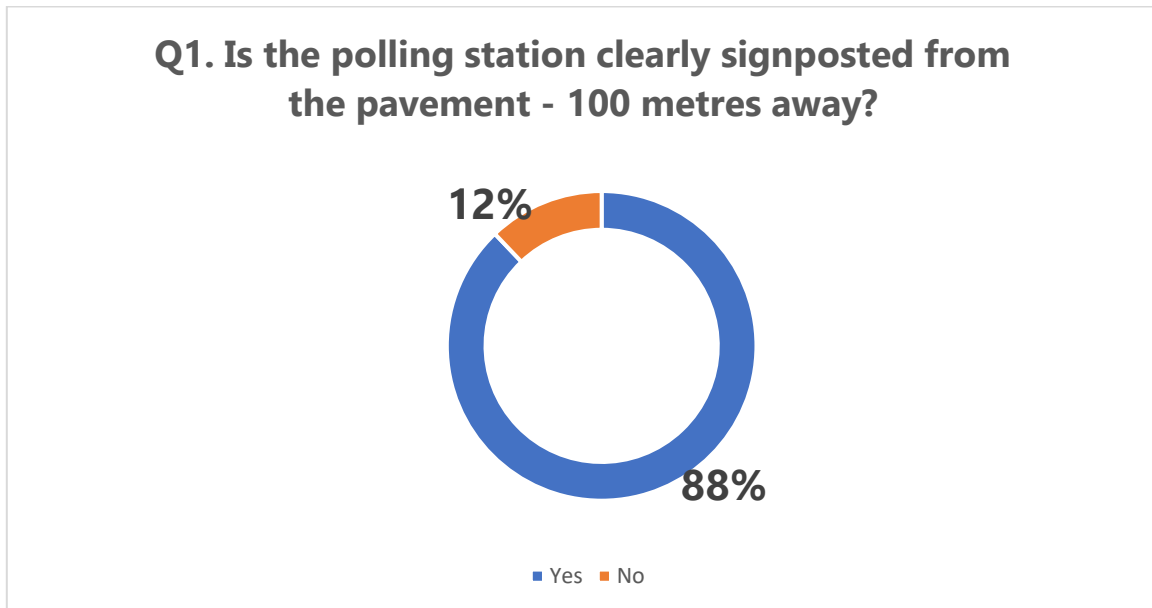
Polling stations are closed places in The Netherlands with the public being given reasonable access to voting, verification and counting. Verification and counting takes place inside the polling stations but increasingly some counting, and aspects of the final counting process, are being piloted in central counting venues.



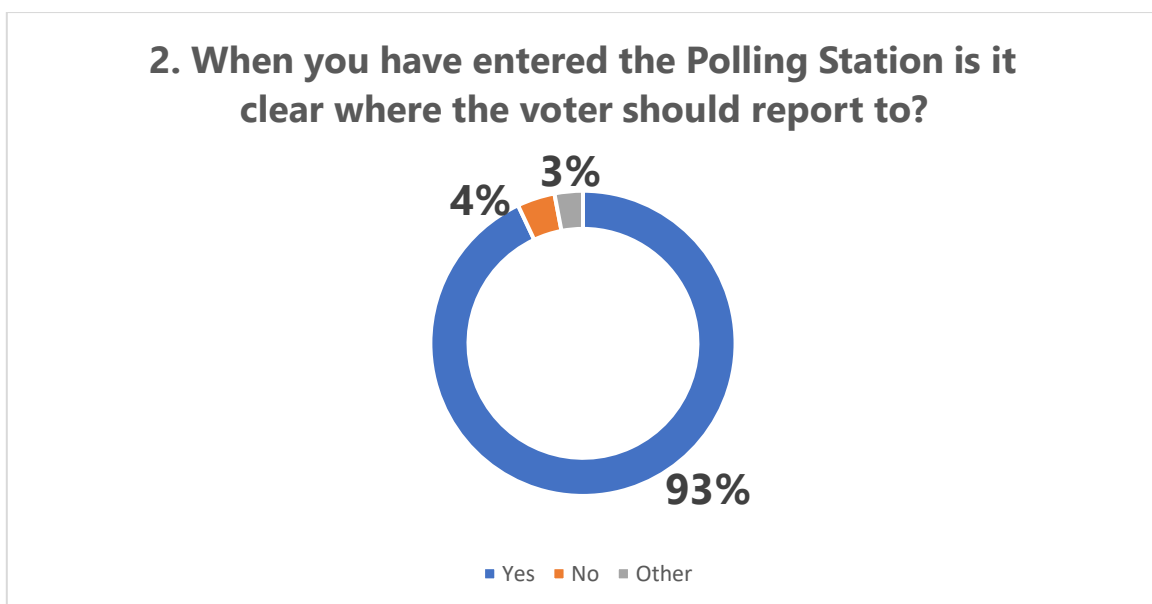
Image 4 Counting generally takes place inside polling stations, some central counting now takes place in larger venues such as in Utrecht. (Permission received by Utrecht City Council)

Results of the Observation

The observers answered the following questions in order as they progressed with each observation at each polling station:

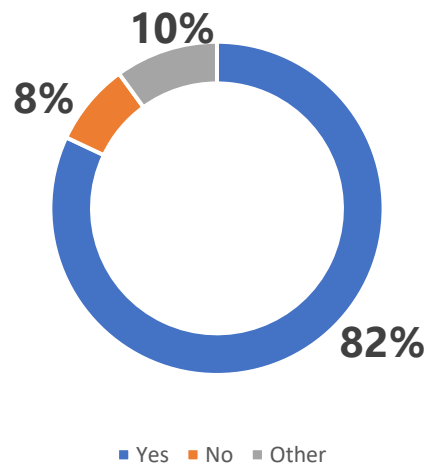


QUESTION 1: Signposting of the polling stations was generally good but with 12 not being clearly signposted. In addition to signage, some polling stations had other members of the public outside and sometimes queues. (N.97)



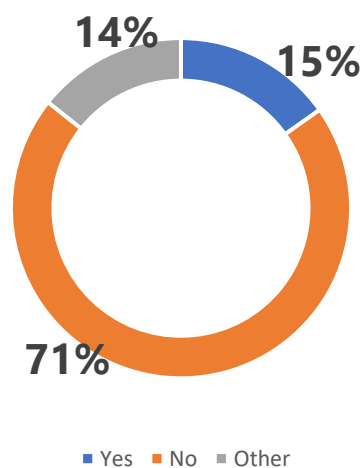
QUESTION 2: Observers identified only four polling stations in which it was not clear where the voter should report to. For most polling stations, clearly visible desks and signage was used to direct voters, including in venues with two ballot boxes present. In these cases, there was minimal confusion of which side of the building to enter but when this did occur it was handled swiftly by polling staff. (N.100)

3. Having entered the polling station was it clear how disabled voters would access the Station?



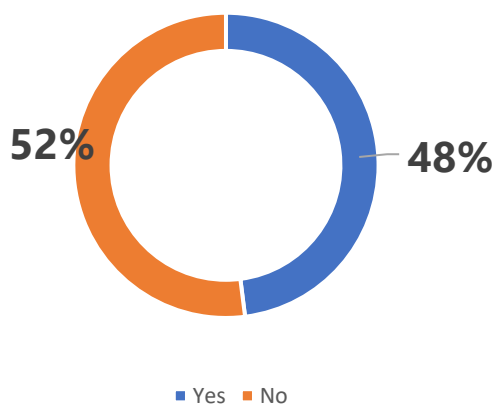
QUESTION 3: Disabled access was very good in 82 of the polling stations. In eight stations it was unclear how disabled voters would access the building. Some observers noted that that in some cases ramp access was poor and caused some access issue which staff attempted to address. Other identified narrow access which could lead to wheelchair access being impeded and some ramps not being signposted or independently accessible. (N.100)

4. Did the polling staff ask you who you are on arrival?



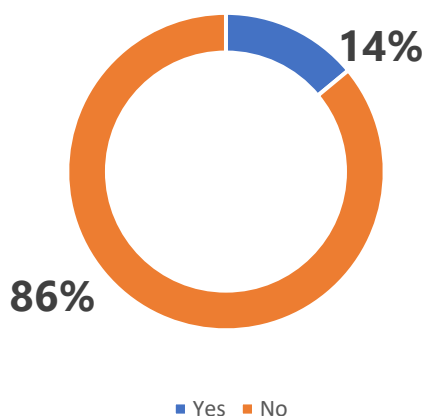
QUESTION 4: Polling staff were generally unaware that the observation team would be operating across The Netherlands on polling day. Some teams reported being asked who they were on arrival, but most were allowed to conduct their observations without question. Only on two occasions was this properly recorded with other presiding officers seeking central assistance before recording our presence. (N.100)

5. Was there any queuing at the polling station whilst you were in attendance?



QUESTION 5: Queuing: We saw voters queuing at 48% of the polling stations we observed. These were never more than 20 at the busiest times. In most cases staff were also available to marshal the queues in advance of receiving their ballot papers. (N.100)

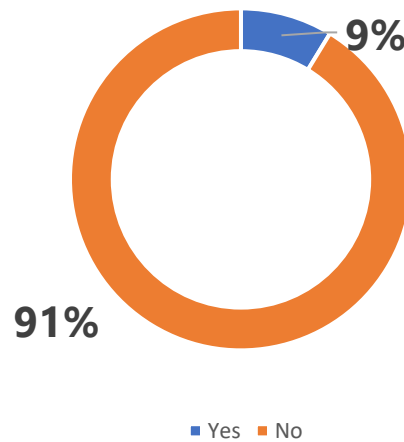
6. Was there evidence of 'family voting' in the polling station?



QUESTION 6: Family voting was observed in 14 of the 100 polling stations. When compared with other elections our organisation has observed this is an average percentage. However, when it did occur staff invariably did not intervene. The OSCE/ODIHR, the international body which monitors elections in The Netherlands, describes 'family voting' as an 'unacceptable practice'⁵⁴. We now grade the types of family voting that takes place, ranging from 'clear direction', 'collusion' or 'general oversight' – these cases were generally the last of these. With 34 voters being affected out of 2235 observed, this is a very low percentage. (N.100)

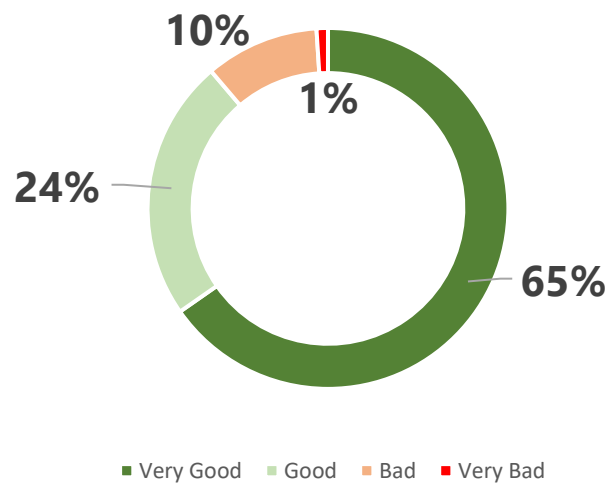
⁵⁴ <http://www.osce.org/>

7. What percentage of voters cast a Proxy Vote on behalf of another person?



QUESTION 7: Voters are allowed to cast votes on behalf of others on a very open basis, where they simply sign their polling card and another person casts it for them in the polling station. 9% of those attending a polling station were also observed to cast a proxy on behalf of another. Of those casting proxy voters, during our observations, 61% were men. (N.2235)

8. How would you rate this polling station?



QUESTION 8: Observers were asked to give an overall rating for each polling station they attended. 65% of polling stations were reported as being 'Very Good', 24% were 'Good' and 10% of polling stations were reported as being 'Bad' with 1% being 'Very Bad'. (N.100)

Conclusions and Recommendations

Overall, the observer team was impressed with the very well-run elections conducted in the polling stations we attended. Voting was open and accessible to voters, including the number of provisions put in place to give independent access to voters with disabilities was impressive. Polling stations are large and busy venues and staff are welcoming and efficient in processing voters. Like all elections, however, there are some challenges in the electoral process that we feel would benefit from consideration by national and local authorities at legislative and administrative levels.

The Netherlands is an advanced, inclusive, and engaged democracy with high voter engagement in its municipal elections with active debate and robust party activity. The diversity of party engagement and public interaction is to be commended.

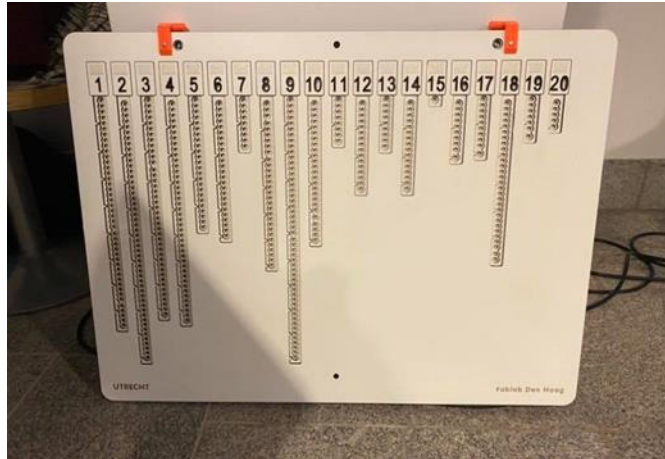


Image 5 Polling Stations were invariably equipped with magnifying glasses and other equipment for the blind and partially sighted.

Recommendations

R1: Removal of 'On-Demand' Proxy Voting

One aspect of the electoral process which was troubling to our observer team was the number of votes cast by proxy at these elections. Prior to the election, the temporary measure which allowed each voter to act as a proxy for up to three other electors at elections the previous year, was reduced back to two. However, proxy voting presents many challenges for both the secrecy and equality of the vote. Although a highly convenient alternative to voting in-person for many voters, this voting methodology is open to potential vote farming, buying, covert family voting and the possibility that the proxy does not vote in the way to voter intended.

This issue has been previously highlighted as an area for concern by both Democracy Volunteers in 2019⁵⁵ and at a number of elections by the OSCE⁵⁶. At these elections our observer teams also recorded the gender of those casting proxies at polling stations. Our data found 61% of those acting as proxies were men, indicating that this methodology of voting is a gendered process, with men more likely to be acting as proxies. Democracy

⁵⁵ Democracy volunteers (2019) Netherlands Provincial and Water Board Elections 2019. Available online at: <https://democracyvolunteers.org/wp-content/uploads/2019/05/netherlands-provincial-and-water-board-elections-final-report-3.pdf>

⁵⁶ OSCE (2022) Elections in The Netherlands. Available online at: <https://www.osce.org/odihr/elections/netherlands>

Volunteers is concerned that this may represent an indication of covert Family Voting and leaves the voting process open to undue influence, coercion, and intimidation.

R2: Introduce more transparent mechanisms for adjudicating unclear ballot papers.

Although many areas of The Netherlands took part in central counting trials at these elections, some of our observers raised concerns over the adjudication of unclear ballot papers when counting took place at polling stations.

Observers noted that at some of the counts that took place inside polling stations, many ballot papers were rejected due to the circle, that voters must colour in red, not being completely filled in, or otherwise marked, such as with a tick or a cross.



Image 6 These images do not suggest that the voter is required to completely colour in the relevant box on the ballot paper but indicate their preference.

In some cases, observers believed that these ballots did show clear intention of how the voter intended to vote. In some circumstances, these decisions were made by a single member of staff inside polling stations. Thus, we recommend that questionable ballot papers are inspected by at least two members of staff and are not rejected at the primary count stage, for further inspection at central counts where applicable.

Appendix: Interlocutors

Ministry of Justice and Kingdom Affairs:

Edward Brukheim, Jorieke Leeuwen, Reiner Fleuke, Hans Klok and Christine Penning.

Kiesraad:

Mirjam de Bruin, Wim Kuijke and Saskia Scheerhout

Municipalities:

Eindhoven: Armand Duchateau and Ingmar van Schalwijk

Den Haag: Arjan Brok and Michelle Mangert

Utrecht: Henk van Dijkhuizen and Marjolein Smulders

Rotterdam: Max Albers and Andre Vervooren

