

# **ODIHR Submission of Information about an OSCE participating State or Partner for Co-operation under consideration in the Universal Periodic Review Process**

## **Participating/Partner State: Canada**

**UPR Session and Date of Review:** 30<sup>th</sup> Session, May 2018

## **Background**

Canada has been a participating State in the former Conference for Security and Co-operation in Europe (CSCE) and the present Organization for Security and Co-operation in Europe (OSCE) since 1973 and has thus undertaken and has recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE documents.<sup>1</sup>

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including Canada, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE area.

The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Canada and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in Canada.

## **Overview of this Submission**

This submission includes a description of election related activities undertaken by ODIHR in the past 4 years.

The findings of the Final Report of the Election Assessment Mission (EAM) on the 19 October 2015 parliamentary elections are summarized below.

The authorities in Canada and other sources have provided information to ODIHR most recently for its most recent (2015) annual report on *Hate Crimes: Incidents and Responses*. Extracts from this information are included below.

Finally, there is a short overview of ODIHR assessments and activities in the area of human rights defenders as well as migration and freedom of movement.

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<sup>1</sup> Compendium of OSCE Human Dimension Commitments, vol 1 and 2; Astana Commemorative Declaration, 2010.

## **Election-related activities**

ODIHR most recently observed the 19 October 2015 parliamentary elections and has deployed an EAM for these elections.

Overall, the EAM final report<sup>2</sup> concluded that the 2015 parliamentary elections demonstrated the credibility of the election process in Canada. The report further notes that the legislation comprehensively provides for electoral rights, however changes to the election legislation, which were passed without cross-party support, were considered as controversial and reduced some of the election administration's powers. Therefore, the report recommends that the process of amending electoral legislation should include a degree of cross-party agreement and consultations should include amongst others, representatives of women, aboriginal and minority groups.

Other priority recommendations relate to the work of the election administration, for providing more time for recruitment of polling staff as well as simplifying election day procedures to the extent possible without compromising the integrity of the process.

With respect to the complaints and appeals and electoral offences, the report notes lack of provisions which would allow the Commissioner of Canada Elections to apply administrative penalties or fines, when resolving complaints and that this results in delays in the resolution of complaints. The report recommends that the "*Commissioner of Canada Elections could be granted the right to compel witnesses and to impose administrative penalties as another option to resolve minor violations of the Elections Act with a view to improve the timeliness and effectiveness of investigations.*"

Additional recommendations relate to electoral legislation amendments which would allow for voting rights for electoral officials and those under court-ordered protective regimes, introduction of additional measures to increase the political participation of women and reinstating Elections Canada's authority to undertake activities to encourage voter participation, especially amongst aboriginal and minority groups.

The ODIHR is expecting an official invitation to observe the upcoming 2019 parliamentary elections.

## **Legislation reviewed by ODIHR**

Upon request by authorities of a participating State, and OSCE field operation or another OSCE institution, the ODIHR reviews draft or enacted legislation of OSCE participating States on topics relating to the human dimension of security for its conformity with OSCE commitments and other international standards. The legal reviews and opinions, often produced in co-operation with the Venice Commission of the Council of Europe, are available at [www.legislationline.org](http://www.legislationline.org).

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<sup>2</sup> All ODIHR reports on Canada are available at <http://www.osce.org/odihr/elections/canada>.

## Tolerance and non-discrimination issues, including incidents of and responses to hate crime

OSCE participating States have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and ODIHR supports states in their implementation of those commitments. In this context, ODIHR reports at <http://hatecrime.osce.org/> to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. ODIHR's data on hate crime is launched online each year on 16 November, covering information from the past calendar year. ODIHR also helps participating States design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of participating States' criminal justice systems and the law-enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.

Information concerning Canada in the most recent (2015) edition of the annual hate crimes reporting<sup>3</sup> includes the following:

- **Overview of officially reported data**

Canada regularly reports hate crime data to ODIHR. Canada's hate crime laws are a combination of a substantive offence and a general penalty-enhancement provision. Police-reported hate crime data are collected by the national statistical agency, Statistics Canada. Due to Canada's reporting cycle, the most recent hate crime figures available cover the year proceeding the reporting year. They are generally released in the summer. Hate crime statistics are regularly published.<sup>4</sup> Canada conducts regular victimization surveys to measure unreported hate crime.

The official country information for the year of 2015 on hate crimes is not available.

- **Overview of incidents reported to ODIHR by civil society**

Bias Motivation	Attacks Against People		Attacks Against Property
	Violent Attacks	Threats	
Racism and xenophobia	0	0	2
Anti-Semitism	34	1	3
Bias against Muslims	12	5	19
Bias against Christians and members of other religions	0	0	0
<b>Total</b>	<b>46</b>	<b>6</b>	<b>24</b>
<b>Grand Total</b>	<b>76</b>		

<sup>3</sup> Available at <http://hatecrime.osce.org/canada>.

<sup>4</sup> Available at <http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11822-eng.htm>.

## **The following civil society organizations reported information on incidents to ODIHR**

### ***Racism and xenophobia***

- The National Council of Canadian Muslims (NCCM) reported a case of vandalism targeting Muslims and Syrian refugees. B'nai Brith reported a further case of vandalism, in which a swastika was drawn on a bridge.

### ***Anti-Semitism***

- The Kantor Center reported 32 incidents of physical violence.

### ***Bias against Muslims***

- The National Council of Canadian Muslims (NCCM) reported 12 physical assaults, all of which targeted Muslim women wearing headscarves; five threats; five incidents of damage to property; and 13 incidents of vandalism, ten of which involved graffiti. The Organization Racism Islamophobia Watch (ORIW) and the NCCM also reported an arson attack on a mosque.

## **Roma and Sinti issues**

N/A

## **Country-specific ODIHR monitoring, assessment, co-operation and assistance activities (other than elections)**

### ***Migration and Freedom of Movement***

Canada was among those fifteen OSCE participating States, which representatives of key national authorities participated in the international conference “Exploring challenges to political participation of migrants in the OSCE region” organized by ODIHR in co-operation with the European University Institute (EUI) in Florence on 18-19 June 2015. This conference was organized with a view to raise awareness among OSCE participating States of the importance of including migrants in democratic governance processes.<sup>5</sup>

### ***Protection of human rights defenders in other OSCE participating States and beyond the OSCE region***

In early December 2016, Canada published online its new Guidelines on Supporting Human Rights Defenders, which are publicly available in English and French.<sup>6</sup> Canada reported that its guidelines are inspired by and in line with similar efforts made by a number of other

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<sup>5</sup> Representatives of Austria, Canada, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Malta, Montenegro, Portugal, Romania, the Russian Federation, Serbia and Switzerland participated in this conference. The conference provided an opportunity for 26 participants (13 men and 13 women) from the state institutions of the above-mentioned participating States and academia to exchange good practices and analyze challenges and lessons learned in implementing OSCE commitments focused on political participation of migrants in the OSCE region.

<sup>6</sup> See, Canada’s Guidelines on Supporting Human Rights Defenders (December 2016), available in English ([http://international.gc.ca/world-monde/world\\_issues-enjeuxmondiaux/rights\\_defendersdefenseurs\\_droits.aspx?lang=eng](http://international.gc.ca/world-monde/world_issues-enjeuxmondiaux/rights_defendersdefenseurs_droits.aspx?lang=eng)) and French ([http://international.gc.ca/world-monde/world\\_issues-enjeuxmondiaux/rights\\_defendersdefenseurs\\_droits.aspx?lang=frao](http://international.gc.ca/world-monde/world_issues-enjeuxmondiaux/rights_defendersdefenseurs_droits.aspx?lang=frao)).

OSCE participating States, as well as ODIHR. The good practices included in Canada's guidelines are intended to direct its diplomatic efforts in support of human rights defenders in the OSCE region and beyond.

**Other assessments and recommendations contained in ODIHR reports on thematic human issues**

N/A