

OSCE/ODIHR Submission of Information about an OSCE Participating State or Partner for Co-operation under Consideration in the Universal Periodic Review Process

Participating State: Republic of Austria

UPR Working Group Session and Date of Review: 37th Session, 01/2021

Background

1. Austria has been a participating State in the Conference for Security and Co-operation in Europe (CSCE) and the Organization for Security and Co-operation in Europe (OSCE) since 1973 and 1990, respectively, and has thus undertaken and recently reaffirmed a wide range of political commitments in the human dimension of security, as outlined in relevant OSCE documents.¹

2. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including Austria, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assistance activities as well as monitoring and providing assessments, advice and recommendations relating to the 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.

3. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Austria 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 Austria.

Election-related activities

ODIHR has observed four elections in Austria, the latest being the 2017 early parliamentary elections. Most recently, ODIHR sent a Needs Assessment Mission (NAM) for the 2019 early parliamentary elections but did not recommend deploying any observation or assessment activity.

Early parliamentary elections, 29 September 2019

4. Following an invitation from the Austrian Federal Ministry for Europe, Integration, and Foreign Affairs (MFA) for ODIHR to observe the 29 September 2019 early parliamentary elections, and in accordance with its mandate, ODIHR undertook a Needs Assessment Mission (NAM) to Austria from 14 to 16 August 2019. The full report of this mission is available at <https://www.osce.org/odihr/elections/austria/429095?download=true>.

5. This ODIHR NAM report concluded that “interlocutors expressed a high level of confidence in all aspects of the electoral process. Apart from the newly introduced legislation on campaign finance, no new issues have been identified pertaining to the conduct of

¹ <https://www.osce.org/odihr/76894>; <https://www.osce.org/odihr/76895>.

elections that would benefit from a new assessment by ODIHR. Based on this, the ODIHR NAM did not recommend deploying an election-related activity for the early parliamentary elections of September 2019. However, ODIHR encouraged the Austrian authorities to consider the issues raised by interlocutors in discussions with the ODIHR NAM, as well as the previous ODIHR recommendations, including with regard to campaign finance, many of which remain unaddressed.”

Early parliamentary elections, 15 October 2017

6. Following an invitation from the Austrian Federal Ministry for Europe, Integration, and Foreign Affairs (MFA) to observe the early parliamentary elections, and based on the recommendation of the corresponding Needs Assessment Mission (NAM) ODIHR experts had conducted in Austria from 23 to 25 August 2017², ODIHR deployed an Election Assessment Mission (EAM) to Austria from 29 September to 20 October 2017.

7. According to the 2017 ODIHR EAM Final Report “the elections reflected Austria’s vibrant democracy. The campaign was lively, with civil and political freedoms fully respected. The media provided extensive and varied coverage that enabled voters to make an informed choice. Although aspects of election-related legislation could be improved, the election was effectively administered and enjoyed a high level of public confidence”. The full EAM report is available at <https://www.osce.org/odihr/elections/austria/370866?download=true>.

8. ODIHR, within its mandate, offered 17 recommendations including the following 4 priority recommendations:³

- a) The authorities should take steps to ensure citizens’ rights of access to information on all aspects of elections are in line with Austria’s international obligations, by ensuring guarantees in law are clear and comprehensive and by proactively putting relevant information into the public domain and providing easy, effective, quick, and practical access to such information.
- b) To ensure effective oversight of political finance and campaign expenditures, the Court of Audit should be empowered to audit political parties’ accounts on the same basis as other institutions receiving public funds, and should be provided the necessary resources to carry out these duties.
- c) In line with previous ODIHR recommendations, and to ensure that effective remedies are available to all citizens, steps should be considered to enable more types of electoral disputes to be resolved by a judicial body before Election Day, including disputes regarding candidates’ right to stand for elections.
- d) To safeguard the impartiality of the election administration and prevent conflicts of interest, candidates and sitting MPs could be restricted from serving on election boards and steps could be explored to ensure that polling station boards are composed of members from more than one political party.

Electoral Follow-up in Austria

² The full ODIHR NAM report is available at <https://www.osce.org/odihr/elections/austria/345201?download=true>.

³ In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly on ODIHR’s election assessment and recommendations”.

9. ODIHR missions final reports include priority recommendations and, as such, are treated as a central element of any follow-up process. In view of the above-mentioned, ODIHR visited Vienna to present the ODIHR EAM final report on the 15 October 2017 early parliamentary elections. ODIHR experts presented the report's findings and recommendations in the Austrian Parliament, to around 100 representatives from political parties, the Ministry of Interior, other government and municipal agencies, and civil society.

10. Discussions at this presentation focussed on ODIHR's recommendations on citizens' right of access to information on all aspects of elections, the effective oversight of campaign finance, timely and comprehensive access for electoral dispute resolution and safeguarding the impartiality of the election administration. The participants discussed a number of other topics, including refining the electoral system, election observation by civil society, postal voting and election-day procedures, as well as lifting criminal liability for defamation.

11. The Austrian authorities stated their intention to follow up on recommendations during the anticipated electoral reform. ODIHR confirmed its willingness to support the reform, including through a review of legal amendments and with technical expertise on certain processes, in line with its mandate and upon request of the host country. It should be noted that the electoral reform was suspended due to early parliamentary elections in 2019.

Presidential Election, 24 April, 22 May and 4 December 2016

12. Following an invitation from the Austrian Federal Ministry for Europe, Integration, and Foreign Affairs (MFA) to observe the repeat second round of the presidential election, and based on the recommendation of a Needs Assessment Mission (NAM) conducted from 25 to 26 August⁴, ODIHR deployed an Election Expert Team (EET) to Austria from 28 November to 9 December with a special focus on the legal framework for postal voting and election day procedures.

13. According to the 2016 ODIHR EET Final Report, "the repeat second round of the election was administered in an efficient and professional manner. The election took place against the backdrop of the annulment of the 22 May second round election results by the Constitutional Court primarily over procedural irregularities in administering the counting of postal votes. Subsequently, the repeat second round initially scheduled for 2 October was postponed due to the poor quality of glue used for the postal voting envelopes. These developments may have detracted from an otherwise high public confidence in the efficiency of the election administration."⁵ The full EET 2016 report is available online at <https://www.osce.org/odihr/elections/austria/305766?download=true>.

14. In this EET report, ODIHR, within its mandate, offered 6 recommendations:

- a) The authorities should consider ways to ensure sufficient numbers of election board members are recruited. This may involve enhancing incentives and/or broadening membership beyond party nominated persons. Efforts should be made to promote gender-balanced representation in election boards, with gender-disaggregated data on the composition of election boards made publicly available.

⁴ The full NAM report is available at <https://www.osce.org/odihr/elections/austria/264241?download=true>.

⁵ The final EET report should be read in conjunction with the 2016 ODIHR NAM reports, which provide additional details on the broader electoral process in Austria. All previous ODIHR reports are available at <https://www.osce.org/odihr/elections/austria>.

- b) As previously recommended, consideration could be given to restricting elected officials from directly serving on election boards, in order to safeguard the impartiality of the election administration.
- c) With the aim of reducing the number of invalid voting cards, the authorities should consider redesigning the voting card in a manner that draws attention to the need to sign the affidavit and instituting enhanced voter information on the process.
- d) To ensure the equality of voting conditions within Austria, the arrangements for depositing, collecting, and delivering voting cards could be standardised. It may be considered to allow all voters to deposit completed voting cards at their municipal authority.
- e) The authorities could take measures to enhance the organization of voting, for example, by enforcing the implied limit on the number of registered voters per polling station, more effectively correlating voting hours to the number of registered voters, and increasing the number of polling station board members.
- f) Consideration could be given to establishing procedures aimed at ensuring the uniform handling and storage of voting cards received by polling station boards.