

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

Participating State: Switzerland

UPR Session and Date of Review: 28th session (Oct-Nov 2017)

Background

Switzerland 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 a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE documents.¹ The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including Switzerland, 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 Switzerland 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 Switzerland.

Overview of this Submission

ODIHR has deployed an Election Expert Team (EET) to assess aspects of the 18 October 2015 Federal Assembly elections related to Internet voting, based on the recommendation of the preceding Needs Assessment Mission. The findings of the Final Report, published on 16 February 2016, are summarized below.

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

Election-related activities

The last ODIHR election activity in Switzerland was an Election Expert Team (EET) deployed to assess aspects of the 18 October 2015 Federal Assembly elections related to Internet voting, based on the recommendation of the preceding Needs Assessment Mission.

In its final report, issued on 16 February 2016, the ODIHR EET concluded that “these elections marked a step forward in Switzerland’s development of Internet voting. As part of a long-term project to develop online voting, some 130,000 eligible voters from four cantons were eligible to participate in Internet voting pilots. This was the second time that Internet voting had been piloted for out-of-country voting in Federal Assembly elections and the first

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

time that some citizens residing in Switzerland could vote via the Internet in federal elections.” The report also noted that the pilots were administered professionally and in line with a newly detailed legal framework, although additional measures could be taken to enhance the transparency and accountability of the process.

Key recommendations and background from the final report are:

Despite a previous ODIHR recommendation, in 2014 the parliament decided against adopting a legal basis for international and citizen election observers. The grounds for the decision were that international rules and regulations are directly applicable and thus there is no need to develop specific federal regulations. Despite the lack of legal provisions, the ODIHR EET was permitted to observe all stages of the Internet voting process and was granted access to information and meeting election administration members in a timely manner.

RECOMMENDATION: In line with prior ODIHR recommendations, electoral legislation should be amended to explicitly allow for international and citizen election observers at all stages of the electoral process. This should include specific provisions to ensure effective observation of Internet voting.

Independent certification is a key measure to promote accountability. Contrary to a prior ODIHR recommendation to establish an independent body to certify all systems, no certification has yet been required or undertaken. Both Neuchâtel and Geneva aimed to start this process separately from 2016 onwards. Both cantons indicated to the ODIHR EET that it would be difficult to identify competent and available professionals able to certify an Internet voting system.

RECOMMENDATION: To promote accountability, independent certification of all authorized Internet voting systems should be established. Consideration could be given to granting this responsibility to a dedicated independent agency that has adequate expertise and resources to undertake its duties in an impartial and effective manner.

In line with good practice and to enhance interoperability, the federal authorities developed open standards for the voting systems so that software used by different cantons can communicate with each other. Open standards can also reduce costs and dependency on a single vendor, as well as allow easier accommodation of future changes. Not all cantons have been able to implement open standards in their systems to date. In spring 2015, Bern decided not to offer Internet voting for these elections, as its current tabulation software was not compatible with the Geneva system.

RECOMMENDATION: When developing Internet voting systems, cantons could make use of existing open standards to enhance interoperability among systems, including with tabulation software.

Voter information on Internet voting is generally available. Informational videos on how different systems work are available on federal and cantonal websites. However, contrary to good practice, voters did not have the opportunity to experiment with the applications outside of an election or referendum, including use of the new verifiability procedures. While Internet voting has been in place for many years for specific groups of voters, there is still a large portion of the population unaccustomed to the procedures for this method of voting.

RECOMMENDATION: Voter information efforts could be increased, including with opportunities for voters to experiment with Internet voting outside of an election or referendum.

Legislation reviewed by ODIHR

Upon request by authorities of a participating State, and OSCE field operation or another OSCE institution, 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.

Basic information about the constitutional system and legislation pertaining to the human dimension of Switzerland is available on <http://www.legislationline.org/countries/country/48>.

During the period under review, ODIHR has not been requested by Switzerland to review draft or existing legislation.

At the same time, on several occasions, ODIHR has reiterated its readiness to assist the authorities in any future reform of its legal framework regulating campaign financing which is not in line with international standards, as also noted in the latest ODIHR Federal Assembly Elections Report (available at: <http://www.osce.org/odihr/elections/switzerland>).

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 Switzerland in the most recent (2015) edition of the annual hate crimes reporting² includes the following:

- **Overview of officially reported data**

Switzerland regularly reports hate crime data to ODIHR. Switzerland's Criminal Code does not contain hate crime provisions, although hate crimes are prosecuted under discrimination and hate speech provisions. As such, the data reported to ODIHR include cases of incitement to hatred and discrimination. Information on hate crimes is collected by the Federal Commission against Racism and the Statistical Office. The Federal Commission against Racism partners with the association humanrights.ch in the Counselling Network for Victims of Racism, which publishes an Annual Report on racist incidents.

² Available at <http://hatecrime.osce.org/switzerland>

The annual 2015 figures included 181 incidents recorded by police, 57 prosecuted and 52 sentenced cases, but no disaggregation by underlying bias motivation was available.

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

Bias Motivation	Attacks Against People		Attacks Against Property
	Violent Attacks	Threats	
Racism and xenophobia	2	1	5
Bias against Roma and Sinti	0	1	0
Anti-Semitism	2	1	1
Bias against Muslims	1	1	0
Bias against Christians and members of other religions	1	0	9
Total	6	4	15
Grand Total	25		

The following civil society organizations reported information on incidents to ODIHR:

Racism and xenophobia

The Consultation Network for the Victims of Racism reported two physical assaults and one threat. The Intercommunity Coordination against Anti-Semitism and Defamation (CICAD) and the Consultation Network for the Victims of Racism reported one incident of vandalism involving swastika graffiti. CICAD reported four additional incidents of vandalism involving swastika graffiti.

Bias against Roma and Sinti

The Consultation Network for the Victims of Racism reported one threat targeting two Roma people.

Anti-Semitism

The Intercommunity Coordination against Anti-Semitism and Defamation (CICAD) reported threats against a Jewish school and one incident of vandalism targeting a synagogue. The Anti-Defamation League (ADL) and Human Rights First reported a physical assault carried out by a group on a man leaving a synagogue. The Consultation Network for the Victims of Racism reported one physical assault against a man that caused serious injury.

Bias against Muslims

The Consultation Network for the Victims of Racism reported one physical assault on a Muslim woman and one threat in which a car driver pretended to run over a woman wearing a headscarf.

Bias against Christians and members of other religions

Jehovah's Witnesses – Switzerland reported one incident of physical assault. The Observatory on Intolerance and Discrimination against Christians in Europe (OIDC) reported three incidents of vandalism, two of which involved graffiti.

- **Incidents reported to ODIHR by the Holy See**

The Holy See reported two incidents of vandalism of Catholic churches.

Roma and Sinti issues

N/A

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

N/A

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

N/A