

**OSCE ODIHR Electoral Seminar, 28 November 2017, Vienna**

***Session 1: OSCE Commitments, International Obligations and Others Standards for Democratic Elections***

**Experiences with Citizen Election Observation in Austria**

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Thank you for the invitation to speak in front of this distinguished audience today. My colleagues and I owe many formative professional experiences and sources of motivation to the community of the OSCE participating states and the ODIHR group of experts. While working abroad to support democratic processes as election observers or technical advisors, the motivation grew to bring our work experience back home.

In 2013, we founded the non-partisan civil society platform *wahlbeobachtung.org* (which stands for election observation) and approached the Department of Electoral Affairs at the Federal Ministry of Interior to request accreditation as citizen election observers in our home country. While we were warmly received, there was one hindrance: The Austrian legal framework pertaining to elections does not foresee citizen election observation and limits international election observation to OSCE participating states. It thus does not fulfil its commitments regarding paragraph 8 of the OSCE Copenhagen Document. The Austrian electoral authorities explained that they are bound by the legal framework and recommended us to speak to representatives of the legislature if we wanted to advocate for changes to the electoral law. And so we did.

Three years later, in 2016, the Austrian electoral process faced an unexpected crisis. Following a tight competition, the two presidential candidates who reached the runoff were divided by only a small results margin. The political party supporting the losing candidate appealed to the Constitutional Court, which organised proceedings with public hearings of members of the lower level election administration. The court hearings revealed an unexpected scale of administrative inconsistencies at the local level, in particular, but not exclusive to the system of postal voting.

Due to these administrative inconsistencies and other reasons, which could have potentially altered the election result – and without an indication of severe electoral malpractices – the Constitutional Court decided to annul the elections and to repeat the runoff. This decision is still discussed by electoral and legal scholars today. At the time, it caused not only immediate dissatisfaction among voters, but also new vigour among civil society to engage with elections as the core of our democracy.

As the electoral process continued, it became evident that it, although robust in principle, is not free of faults. In this situation, we found considerable interest among political stakeholders to discuss electoral reforms with us as independent, non-partisan, and self-financed civil society initiative. Already prior to the Constitutional Court decision, we had studied the national electoral framework in detail. During six missions to Vienna, we met representatives of the Federal Election Board, the Ministry of Interior, and the Chancellery. We have met the representatives of all political parties in parliament, and have further met the Court of Audits, party academies, constitutional lawyers, and electoral legal experts. We also started to network with other civil society organisations who have an interest in electoral reforms, often of specialised nature.

In 2016, on the basis of over 50 interviews and our analysis of the legal framework, we compiled our findings and recommendations in a discussion paper, which we shared with all our interlocutors for comments. In the beginning of 2017, we presented a catalogue of over 30 recommendations to all electoral stakeholders to revise the electoral framework.

No electoral process is perfect, and Austria, like all countries, has areas where further improvements could be made. Our recommendations pertain to the legal framework as such, which we would recommend to be unified and simplified; to the election administration, where we would like to see more transparency of proceedings at the federal level and more citizen participation at the local level; to balloting procedures, in particular to postal voting; to the complaints and appeals system; to the monitoring of online speech in relation to campaign; to the provisions for election observation; and to other elements of the electoral framework.

Three issues to flag:

- Political finance: Austria has received recommendations from ODIHR missions to enhance transparency and accountability in its framework for political party and campaign finance, and has addressed some of these recommendations with new laws in 2013. Nevertheless, Austria still falls behind the ODIHR recommendations as well as recommendations from the Group of States against Corruption of the Council of Europe.

- Women Participation: With the recent national elections, the proportion of women in parliament has risen to 34%. However, despite the efforts of some political parties, the legislative framework does neither foresee incentives nor binding measures to increase the electoral participation of women as candidates. We regard this as at odds with the UN Convention on the Elimination of All Forms of Discrimination against Women.

- Electoral participation of persons with disabilities: Austria has ratified the UN Convention on the Rights of Persons with Disabilities in 2008, but has not yet enshrined the right to equal participation in its electoral laws. In our federal system, some administrative units undertake measures to enhance the participation of persons with disabilities, but others lag behind. This is a field of new developments, also with regards to international standards and best practices, where some OSCE participating states currently employ progressive measures to ensure that the electoral participation of persons with disabilities is as easy as it is for other citizens, on election day and beyond. The recently published OSCE/ODIHR Handbook on Observing and Promoting the Electoral Participation of Persons with Disabilities is a valuable and timely source of inspiration for this important human rights sector, which can inspire our overall reflections on democratic processes.

Following the electoral crisis of 2016, political stakeholders foresaw a broader electoral reform process, which was overtaken by the proclamation of early elections in the first quarter of 2017. However, we continued to advocate for electoral reforms.

Our platform has become a recognised member of the Global Network for Domestic Election Observers and adheres to the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations and the Code of Conduct for Nonpartisan Citizen Election Observers and Monitors.

We have based our working methodology on international standards and best practices for election observation and on recommendations by previous ODIHR reports commenting on the Austrian electoral process. Until now, the OSCE/ODIHR, following invitations by Austrian authorities, has visited Vienna nine times, which is a record in western Europe. Since 2013, we, as Austrian electoral advocacy platform, have met each OSCE/ODIHR mission to provide information and discuss electoral reforms, and at the same time flag issues where Austria has not yet implemented OSCE/ODIHR recommendations with national stakeholders. By doing so, we also see our initiative as a follow-up mechanism to OSCE/ODIHR undertakings.

We have complemented our advocacy work with targeted press releases, journal articles, and academic publications. Ahead of the recent legislative elections, we have organised a panel discussion at which six different Austrian civil society organisations presented their priorities and proposals for electoral reforms. We want to continue our advocacy work with the new legislature, and currently plan workshops to discuss electoral reforms between members of parliament and civil society. We have found inspiration for all these measures while working in other countries, but find it rewarding to also bring these tools back home to contribute to the safeguarding and further development of our democratic system.

Austria might not need a national organisation with hundreds of citizen observers for election day, but might well profit from targeted and specialised observation and advocacy efforts, for which we yet lack adequate legal safeguards. While we were indeed warmly welcome and have been received with interest by all relevant stakeholders, including the Austrian election administration, the full implementation of paragraph 8 of the OSCE Copenhagen Document remains a deliverable.

Austria is not alone in this situation. Based on our analysis of ODIHR reports concerning Western Europe and elaborated in a forthcoming academic article in the Nordic Journal for Human Rights, the ODIHR recognizes full implementation of paragraph 8 in only 5 participating states. Among the other European countries, we find a variety of legal frameworks, some allowing election observation in principle, ad hoc, or upon decree, for some phases of the electoral process, but provisions for both international and citizen election observation with accreditation systems are not sufficiently embedded.

The integrity of the electoral process cannot be taken for granted in any democracy, as robust as it might appear. Perpetual monitoring and continuous development are important, and therefore the inclusion of civil society opinions and expertise is essential and can be a key advantage. In this spirit, we like to encourage other civil society organisations, parliaments, and governments in the OSCE region to follow-up on OSCE/ODIHR recommendations, to recognise the value of citizen election observation, and to provide the relevant legal provisions.

Thank you for your kind attention.