



Office for Democratic Institutions and Human Rights

REPUBLIC OF AUSTRIA

**EARLY PARLIAMENTARY ELECTIONS
29 SEPTEMBER 2019**

ODIHR NEEDS ASSESSMENT MISSION REPORT

14-16 August 2019



Warsaw
4 September 2019

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REPUBLIC OF AUSTRIA
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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the Austrian Federal Ministry for Europe, Integration, and Foreign Affairs (MFA) to the OSCE Office for Democratic Institutions and Human Rights (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. The NAM included Alexey Gromov, ODIHR Election Adviser, and Ulvi Akhundlu, ODIHR Election Adviser.

The purpose of the NAM was to assess the pre-election environment and preparations for the elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming elections and, if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and the election administration, as well as with representatives of political parties, media, and civil society. A list of meetings is annexed to this report.

ODIHR would like to thank the MFA for their assistance in organizing the visit. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and share their views.

II. EXECUTIVE SUMMARY

Austria is a federal republic consisting of nine provinces, with legislative powers vested in the bicameral parliament. Following a political corruption scandal and the collapse of the ruling coalition, the parliament expressed no confidence to the federal government and called early parliamentary elections for 29 September. Citizens will vote to elect the 183 members of the National Council (MPs), for a five-year term through a proportional system with open candidate lists.

The legal framework provides a generally sound basis for the conduct of democratic elections. Recent amendments to the legal framework for elections have addressed some of prior ODIHR recommendations related to campaign finance regulations. A number of previous recommendations pertaining to disclosure, reporting and oversight for campaign finance violations, including by third parties, still require attention. Many other ODIHR recommendations also remain to be addressed, including on the citizens' right of access to electoral information, oversight of campaign finance, effective remedies with regards to electoral violations, conflicts of interest in election administration, and a lack of provisions for citizen election observers.

Parliamentary elections are administered by a five-tiered system of election boards and administrative authorities, headed by the Federal Election Board with support from the Ministry of Interior. Election boards at all levels include representatives of political parties. There are no special measures in the law to promote gender-balanced representation on election boards. All ODIHR NAM interlocutors expressed full confidence in the election administration.

There are some 6.4 million of citizens aged 16 or older who are entitled to vote. Citizens may be disenfranchised by an individual court decision for committing specific crimes. Voter registration is

passive, except for people residing abroad who must actively register. The new centralized voter register allowed for improving data quality and effective data processing at local level. No concerns were expressed regarding the overall accuracy and inclusiveness of the voter lists.

Voters may cast their vote in person or by postal ballot from within or outside of Austria. Alternative voting mechanisms enjoy a high level of popularity. ODIHR NAM interlocutors noted efficient administering of all voting methods and expressed full confidence in the system.

Eligible voters over 18 years of age, except those sentenced for more than six months in prison or for a probationary term of more than a year, may stand for election. Campaigning parties can present lists of candidates at the regional, province, and national levels. Candidate lists must be supported by either three MPs or a reasonable number of voters in corresponding provinces. A voter can only sign in support of one candidate list and must do so in person at the municipal office of his or her main residence. Several ODIHR NAM interlocutors expressed concerns that such a procedure is burdensome and may have a dissuasive effect on voters, especially in smaller municipalities.

Women account for one half of the current ministers and 37 per cent of MPs in the outgoing parliament. Some parties have internal policies for ensuring gender balance among their candidates. Recent legal changes introduced financial incentives for parties to promote women candidates.

Election campaigning is largely unregulated at the federal level. There is no official campaign period and few limitations are in place with regard to campaign methods. The campaign is expected to focus on climate change, anticorruption efforts, healthcare, housing and education. No parties noted any concerns with regard to their ability to campaign freely.

Political parties may fund their campaign through private donations and loans. In addition, parliamentary parties receive significant public subsidies. In July 2019, the parliament amended party and campaign finance legislation and introduced annual donation ceilings for political parties and individual donors, prohibited foreign donations, strengthened party finance reporting requirements and increased penalties for exceeding the total campaign expenditure limit of EUR 7 million. Nevertheless, the oversight agency has limited authority to review the financial reports of political parties. Several parties have introduced detailed self-reporting mechanisms to enhance transparency of their finances.

Media is largely self-regulated with regard to campaign coverage and offers a diverse range of views. Defamation and libel are criminal offenses, but they are rarely applied to the media. The public broadcaster plans to organize multiple debates among the campaigning parties and ensure comprehensive and balanced coverage of their campaign activities in the news. Most ODIHR NAM interlocutors expressed overall satisfaction with the access to media, although some noted lesser coverage of non-parliamentary parties and certain bias against some parties.

There are few formal procedures for the submission of complaints to election administration bodies and, in general, complaints can only be resolved after the announcement of final results. Challenges to election results can be filed to the Constitutional Court only by parties and candidates. Notwithstanding, all ODIHR NAM interlocutors expressed overall confidence in the complaints and appeals system and the impartiality of the election authorities and judiciary.

All ODIHR NAM 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 elections that would benefit from a new assessment by

ODIHR. Based on this, the ODIHR NAM does not recommend deploying an election-related activity for the upcoming early parliamentary elections. However, ODIHR encourages the authorities of Austria to consider the issues raised by interlocutors in discussions with the ODIHR NAM, as well as previous ODIHR recommendations, including with regard to campaign finance, many of which remain unaddressed. ODIHR stands ready to offer its assistance upon request in a post-election follow-up process.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Austria is a federal parliamentary republic consisting of nine provinces. Legislative powers are vested in a bicameral parliament composed of the 183-member National Council (*Nationalrat*, lower chamber), directly elected for a five-year term, and the 61-member Federal Council (*Bundesrat*, upper chamber), indirectly elected by the provincial legislatures. The Chancellor, usually leader of the largest parliamentary party, is the head of the government appointed by the president following the parliamentary elections.

During the parliamentary elections in October 2017, candidates from five parties were elected to the National Council: the New People's party (ÖVP) – 61 seats, the Social Democratic Party (SPÖ) – 52, the Freedom Party (FPÖ) – 51, the New Austria (NEOS) – 10, and the List Peter Pilz – 8.

The early parliamentary elections were called in the wake of the collapse of the ruling ÖVP–FPÖ coalition, following the so-called Ibiza affair.¹ Initially, Chancellor Sebastian Kurz intended to stay in power and run a minority caretaker government until the elections. However, he was dismissed by the National Council on 27 May through a motion of no confidence, the first successful motion of no confidence in the modern state of Austria. Subsequently, a technocratic government led by Chancellor Brigitte Bierlein was appointed on 3 June. On 3 July, the Federal Government in agreement with the National Council set the election date for 29 September.

The current government is gender balanced and 6 out of its 12 ministers, including the Chancellor, are women. Overall, 37 per cent of all current members of parliament in both chambers are women, including both vice presidents of the National Council.²

ODIHR has previously deployed four election-related activities to Austria, most recently for the 2017 early parliamentary elections. The ODIHR Election Assessment Mission concluded that “the 2017 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”.³

¹ On 17 May 2019, a secretly recorded video was published of a July 2017 meeting in Ibiza (Spain), which appeared to show the former vice chancellor and leader of the FPÖ and his deputy promising public contracts in return for a campaign help to a woman posing as the niece of an influential Russian oligarch. The Ibiza meeting later appeared to have been a setup, but it nonetheless prompted public protests, given the FPÖ leader’s apparent willingness to trade political favours.

² See also UN Committee on the Discrimination against Women [Concluding observations on the ninth periodic report of Austria](#), CEDAW/ C/AUT/CO/9, 22 July 2019, paragraphs 26 and 27.

³ See all [ODIHR election-related reports on Austria](#).

B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The 183 members of the National Council (MPs) are elected for a five-year term through a party list proportional representation system with preferential voting. The country is divided into 9 constituencies within the boundaries of corresponding provinces, which are in turn subdivided into a total of 39 regional constituencies. Each regional constituency is allotted from one to nine seats on the basis of its population, as determined at the last 2011 census.

Using a single ballot paper, voters mark their choice of a candidate list and may cast up to three preferential votes within the list: one each for their preferred candidates at federal, provincial and regional level.⁴ Seats are allocated in a three-stage procedure. At the regional level, seats are allocated to parties according to the quotient of the corresponding valid votes received for the list in the province and the electoral regional quota.⁵ At the province level, the seats are distributed according to the *Hare* method only for those parties that gained at least four per cent of the votes nationwide or gained a seat in a regional constituency. At the federal level, seats are allocated according to the *d'Hondt* system. Seats won at a given stage are subtracted from seat allocation at the following stage.

The legal framework for parliamentary elections provides a generally sound basis for the conduct of democratic elections and consists primarily of the 1929 Constitution (last amended in 2019) and the 1992 Parliamentary Election Act (last amended in 2016), as well as several other laws.⁶ Instructions of the Ministry of Interior (MoI) and the case law of the Constitutional Court also form an important part of the applicable regulations. Austria is a party to major international and regional instruments related to the holding of democratic elections.⁷

On 4 July, the parliament amended the main laws regulating party and campaign finance, the 2012 Federal Act on Financing of Political Parties (FPPA) and the 2012 Federal Support of Political Parties Act (PPA), partially addressing previous ODIHR recommendations related to transparency of campaign finance. Several ODIHR NAM interlocutors noted that the amendments did not enjoy consensus among parliamentary parties, and lacked inclusive and proper discussion.

There have been no other changes to the electoral legal framework since the last parliamentary elections, although the parliament hosted a discussion in September 2018 that focused on potential electoral reform in the light of prior ODIHR recommendations, as well as initiatives of the MoI and civil society. Many ODIHR recommendations remain thus to be addressed, including on the citizens' right of access to electoral information, oversight of campaign finance, effective remedies with regards to electoral violations, and preventing of conflicts of interest in election administration.

⁴ The candidates need to obtain 7 per cent of preferential votes in the federal list, 10 per cent in the provincial list, and 14 per cent in the regional list to alter the order of the corresponding candidate list.

⁵ The electoral regional quota is defined as the ratio between the number of all valid votes cast in a given constituency and the number of parliamentary seats allocated in this constituency.

⁶ Other relevant laws are the 1947 Prohibition Act, the 1953 Constitutional Court Act, the 1973 Act on the Electoral Register, the 1974 Penal Code, the 2012 Political Parties Act, and the 2012 Federal Act on Financing of Political Parties (FPPA).

⁷ Including the 1966 International Covenant on Civil and Political Rights, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1979 Convention on the Elimination of All Forms of Discrimination against Women, 2003 UN Convention against Corruption, 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), and 1950 European Convention on Human Rights. Austria is also a member of the Council of Europe's Venice Commission and Group of States against Corruption (GRECO).

In addition, despite previous ODIHR recommendations, the law does still not allow citizen observation.⁸

C. ELECTION ADMINISTRATION

The election administration has five levels, reflecting the country governance structure. It comprises the Federal Election Board (FEB), 9 Province Election Boards (PEBs), 111 District Election Boards (DEBs), 2,095 Municipal Election Boards (MEBs), and some 10,300 Polling Station Boards (PSBs). All boards are permanent and convene as necessary to administer all types of elections. Parliamentary parties nominate election board members at all levels, while non-parliamentary parties that participated in the previous parliamentary elections as well as other campaigning groups are entitled to nominate observers. There are no special measures in the law to promote gender-balanced representation on election boards. All ODIHR NAM interlocutors expressed full confidence in the work of the election administration at all levels.

The FEB is responsible for supervising the work of lower election boards, registering federal candidate lists, and announcing final election results. The PEBs are in charge of registering province and regional candidate lists, printing the ballots, counting votes cast with voting cards and compiling election results. The DEBs count postal votes and compile election results of subordinate boards. The MEBs certify candidate support documentation, oversee voter registration, produce voter lists, and compile the results from polling stations and mobile election boards. The PSBs conduct voting and counting on election day.

The FEB is an independent body composed of 17 members, each having a substitute, and chaired by the Minister of Interior. Two members are judges and the other members are nominated by the parliamentary parties, in proportion to their number of MPs. The new composition of the FEB was formed on 30 July for the next legislative term, with only four women as members. The FEB members cannot be members of any other election board and can be recalled by their nominating parties. Several FEB members and their substitute members are current MPs and/or are standing for election. ODIHR has previously recommended restricting elected officials from directly serving on election boards, in order to safeguard the impartiality of the election administration.

The PEBs, DEBs, and MEBs all consist of nine members and a chair, and PSBs are composed of three members and a chair, each with substitute members. The board members are nominated by the parliamentary parties based on local results in previous parliamentary elections. The chair of each board is the head of the respective local government, except for the PSBs, where the chairs are nominated by the mayors. The chair of a board is a non-voting member unless required to break a tied vote. Some ODIHR NAM party interlocutors noted that it is increasingly difficult to find sufficient number of volunteers willing to serve as PSB members.

Civil servants at each level of government provide assistance to their respective election boards. The MoI plays a significant role, acting as the secretariat for the FEB. The MoI has issued official guidelines for election boards with a specific focus on clarifying election day and postal voting procedures, and has also prepared and posted online training materials. The MoI, jointly with provinces, municipalities, and the MFA, has prepared and will distribute voter education materials, including for specific groups of voters, such as first-time voters and persons with disabilities.

⁸ Paragraph 8 of the 1990 OSCE Copenhagen Document provides that “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”.

Municipal authorities maintain voter registers and provide operational support for election day activities. At least one polling station accessible for persons with disabilities should be established in every municipality (every district in Vienna). Several ODIHR NAM interlocutors commended efforts of authorities to improve accessibility of polling stations but noted that voter education and campaign materials in easy-to-read and other special formats may not be sufficient.⁹

Issues of electoral cybersecurity received additional attention in recent years. For the assessment of risks and developing mitigation measures against potential cyber-attacks an Expert Group was formed under the MoI, comprising representatives of different ministries and agencies. In particular, the Group checked the election-related IT infrastructure at federal and provincial levels for their preparedness to stop potential threats to the electoral process and dealt with relevant security issues in other election-related areas.

D. VOTER REGISTRATION AND VOTING METHODS

All citizens 16 years or older as of election day have the right to vote, unless their suffrage rights have been suspended by an individual court decision on limited grounds.¹⁰ Positively, there are no restrictions based on disability.

As of 2 September, 6,396,796 citizens were registered to vote for the upcoming elections. Voters are automatically included in the voter lists by municipal authorities according to their place of main residence, except citizens living abroad who have to register actively. Several ODIHR NAM interlocutors noted that the new Central Voter Register, which came into effect on 1 January 2018, allowed for improving data quality, centralized cleansing of duplicate records and effective data processing at local level. No concerns were expressed regarding the overall accuracy and inclusiveness of the voter lists.

Voter lists were publicly posted from 30 July to 8 August for scrutiny by voters. In case there are mistakes, anybody may make a claim at their respective municipality and further appeal the decision to the Federal Administrative Court. Parliamentary parties as well as other campaigning parties may obtain copies of the voter lists for a fee covering their production costs.

Voters can cast their vote in-person at their assigned polling station on election day or by postal ballot from within or outside the country. Voters residing abroad can only vote by postal ballot. They can opt to receive postal ballots for any federal election taking place in the following 10 years. Voters residing abroad may return their ballot by post or deposit it at their embassy or consular representation for return to Austria.¹¹ Persons with disabilities can be assisted in casting their vote in the polling station by a person of their choice.

Voters residing abroad or wishing to cast their vote in a polling station other than their assigned one can apply for a voting card at the local municipality either online, until four days before election

⁹ Article 9 of the CRPD prescribes to take "appropriate measures to ensure to persons with disabilities access, on an equal basis with others...to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas". See CRPD Committee [Concluding observations on the initial report of Austria](#) (30 September 2013), CRPD/C/AUT/CO/1, paragraphs 48 and 49.

¹⁰ Citizens may be disenfranchised if convicted of a criminal offence under the Prohibition Act, imprisoned for more than one year for an offence against the state, army, and supreme state bodies, for electoral fraud, or imprisoned for more than five years for any crime.

¹¹ If voters wish to use diplomatic channels for posting back their votes, their ballots are to be delivered to the diplomatic representation at least six days prior to election day for residents in the European Economic Area or Switzerland, or at least nine days prior to election day for the rest of the world.

day, or in person, until two days before election day. Voting cards are also used for mobile voting by homebound voters, voters in special voting stations in hospitals, health care centres, nurseries, jails, and detention centres. After receiving the voting card, a voter is marked off the voter list and is only allowed to cast a ballot with this voting card. Voters sending their ballot by mail are further required to accompany the ballot with an affidavit attesting that their vote was made personally, confidentially, and without influence. Postal ballots must be returned by 17.00 on election day by mail, in person, or by a person of trust to any DEB, or to any PSB on election day during its working hours.

Alternative voting mechanisms enjoy a high level of popularity in Austria.¹² The majority of ODIHR NAM interlocutors noted efficient administering of the alternative voting methods and expressed full confidence in the system.

E. CANDIDATE REGISTRATION

Eligible voters over 18 years may stand for election, unless they are excluded from candidacy for certain intentional crimes.¹³ Each campaigning party can present lists of candidates at a regional, provincial, and/or federal level.

Nominations for province and regional candidate lists had to be submitted to the PEBs between 9 July and 2 August and federal candidate lists to the FEB up to 12 August. For registration of nominees, campaigning parties had to provide a set of documents on the candidates, ensure the validity of the supporting documents, and pay EUR 435 per provincial candidate list to partially cover the cost of printing the ballots.

Nominations for provincial candidate lists need to be supported by signatures of at least three MPs or by signatures of a reasonable number of registered voters in the respective provinces.¹⁴ Voters who wish to support a list of candidates must verify their identity and sign a support form at the municipal office of their main residence.¹⁵ Several ODIHR NAM interlocutors expressed concerns that the procedure of collecting voter signatures is overly burdensome, and the requirement to visit the municipal office may have a dissuasive or intimidating effect on some voters, especially in smaller municipalities. At the same time, supporting public initiatives is available by casting a support signature electronically through the Central Voter Register or by visiting any municipal office, irrespective of the main residence of a supporter.

In line with a previous ODIHR recommendation, the July 2019 legal amendments introduced a bonus of 3 per cent in state funding for parliamentary parties for having at least 40 per cent of women among their MPs. Several parties met with by the ODIHR NAM stated that they have internal policies to ensure more balanced gender representation among candidates.

¹² In the 2016 presidential election – some 543,000, 760,000, and 650,000 cast their postal votes in each of the corresponding voting rounds. In 2017 parliamentary elections, 889,193 voting cards were issued to voters.

¹³ The Parliamentary Election Act excludes persons from standing after receiving a prison sentence of at least six months or a conditional prison sentence of more than one year for an intentional crime. In addition, under the Prohibition Act, persons can be barred from candidacy for acts in support of National Socialism, justification of the Nazi genocide, crimes against humanity or ideology. The Constitutional Court determined that this should be taken into account during the registration of candidates and political parties.

¹⁴ In total, 2,600 voter support signatures are needed to register lists in all 9 provinces, with the minimum 100 support signatures in Burgenland and Vorarlberg, 200 in Carinthia, Salzburg, and Tyrol, 400 in Upper Austria and Styria, and 500 in Lower Austria and Vienna. Unlike for presidential elections, non-resident citizens may not sign the statements abroad.

¹⁵ While MPs could support multiple lists of candidates, each voter can only sign in support of only one candidate list and the voter register at the municipality will be marked accordingly to avoid multiple endorsements.

In total, eight parties applied and were registered at the federal level as well as in all provinces. Additionally, six smaller parties registered their candidate lists in only one or two provinces. Two out of eight federal lists are led by women.

F. ELECTION CAMPAIGN AND CAMPAIGN FINANCE

The legislation does not contain detailed provisions on the election campaign. There is no official campaign period and it is allowed to campaign up to and on election day. Few limitations are in place with regard to campaign methods. Contestants must notify the authorities 48 hours before holding a public assembly so that adequate security can be provided. The constitution guarantees freedoms of association and assembly, and none of the ODIHR NAM interlocutors noted any concern with regard to their ability to campaign freely.

Although the campaign was not yet visible, interlocutors met with by the ODIHR NAM anticipated a high level of interest in these elections and expected the campaign to intensify in September. Electoral contestants intend to convey their campaign messages to voters via political discussions in traditional and social media, and political advertising, including through posters and billboards. While political parties met with by the ODIHR NAM highlighted the significance of campaigning online, they attributed even greater importance to small meetings and door-to-door canvassing.

The campaign will likely focus on climate change, anticorruption efforts, healthcare, housing and education. Some ODIHR NAM interlocutors opined that right-leaning political parties may focus on migration and integration issues, using divisive rhetoric and inflammatory language. Political parties informed the ODIHR NAM that unlike previous elections, a voluntary code of conduct for the upcoming elections may not harness necessary support from the major electoral contestants.

The campaign finance legal framework provides for private and public funding. Considerable public funding is allocated to political parties annually, totalling some EUR 30 million, which may be used for campaigning.¹⁶ Donations from state entities, party-backed academies, and parliamentary party clubs are banned. Loans are not subject to any restrictions in amount or source.

The FPPA, as amended in July 2019, will be applicable for the first time for the upcoming elections. Key changes include the introduction of annual donation limits of EUR 7,500 per individual and legal entity, and setting an annual donation ceiling for political parties at EUR 750,000. Donations of over EUR 2,500 must be reported to the Court of Audit and published immediately. The amendments also prohibit any foreign donations and, in line with one of ODIHR recommendations, introduce higher penalties for exceeding the campaign expenditure limit of EUR 7 million.¹⁷ While most ODIHR NAM interlocutors regarded the amendments as a significant step towards ensuring greater transparency, some political actors criticized their limited nature and hasty adoption, claiming the changes were intended to affect the OVP, which heavily relied on individual donations. A number of previous recommendations pertaining to disclosure, reporting and oversight for campaign finance violations, including by third parties, still require attention.

The FPPA requires annual reports on political party financing to be submitted to the Court of Audit, the financial oversight body, by 30 September of the following calendar year. There is no reporting requirement specifically on election campaign finance. Political parties are simply required to file a

¹⁶ Public funding is provided to parliamentary political parties as well as to the parties that did not enter the parliament but received at least one per cent of the vote during last parliamentary elections.

¹⁷ The fines for exceeding the spending limit vary from 15 per cent of the excess amount (for exceeding less than 10 per cent of the limit) by up to 150 per cent of the excess amount (if the excess is greater than 50 per cent).

statement that they did not exceed the campaign expenditure ceiling, and supporting documents are provided only with the annual report. Reporting obligations during the campaign are limited to disclosure of donations exceeding EUR 2,500. Several political parties voluntarily publish all their donations and campaign expenditures on their party websites, including during the campaign.

Despite a previous ODIHR recommendation, the Court of Audit has limited authority to review the reports, although it may require a further independent audit if it considers a report to contain incorrect or inaccurate information. The Court of Audit's findings are forwarded to an Independent Political Parties Transparency Panel (IPPTP), situated within the Federal Chancellery, which is mandated to impose monetary penalties and fines in case of violations. Decisions of the IPPTP can be appealed to the Federal Administrative Court, with the Constitutional Court acting as final instance for constitutional challenges.

Many ODIHR NAM interlocutors shared the view that disclosure, reporting and sanctioning requirements for campaign finance, including by third parties, could be further tightened, and the mandate of the Court of Auditors be extended to allow for direct audit of party finances.

G. MEDIA

The media offer a pluralistic and diverse range of views. The main source of political information is television (TV) and the public Austrian Broadcasting Corporation (ORF) has the largest TV market share. Newspapers, the Internet and social media play an important role in framing political coverage and enjoy a wide audience. Several ODIHR NAM interlocutors noted that 'fake' news, especially in social media, increasingly compromise the objective political information available for voters.

The activities of broadcast and print media are regulated by several laws, including the 1981 Federal Act on the Press and other News Media, 1984 Federal Act on ORF, and the 2001 Audio-visual Media Services Act. Collectively, they require public and private media to comply with fundamental principles concerning freedom of expression, objective news coverage, respect for diversity of opinions, and independence of journalists. In respect of specific rules for campaign coverage the media is largely self-regulated.

Despite a previous ODIHR recommendation, defamation, libel, insult, and slander have not been decriminalized and are punishable with a fine or imprisonment from 3 up to 12 months. ODIHR NAM media interlocutors noted that these criminal sanctions are rarely applied against media.¹⁸

The independent Austrian Communications Authority, *KommAustria*, oversees the compliance of electronic media with legislation. The supervision during the campaign is complaint-based and no internal media monitoring is conducted. The decisions of *KommAustria* can be appealed to the Federal Administrative Court. The self-regulatory body for the print media, the *Presserat*, reviews complaints against print outlets, but has no sanctioning power.

The public broadcaster ORF plans to cover the upcoming campaign in a balanced manner on the basis of newsworthiness. ORF does not offer paid advertising or provide free airtime to contestants, but starting from 4 September it will organize series of debates between the parties and provide them with an opportunity to present their views during political programmes. Majority of ODIHR NAM interlocutors expressed overall satisfaction with the campaign coverage by ORF and access to

¹⁸ At least two campaign-related cases for defamation were under investigation by the prosecutor office during the 2017 parliamentary elections.

media in general, but some noted lesser coverage of non-parliamentary parties and certain bias against some parliamentary parties.

H. COMPLAINTS AND APPEALS

The complaints and appeals process is regulated by the Parliamentary Elections Act, the Administrative Court Proceedings Act and the Constitutional Court Act. There are few formal procedures for the submission of complaints to election administration bodies and, in general, complaints can only be resolved after the announcement of final results. ODIHR has previously recommended that certain election-related complaints, including those pertaining to candidate registration, be open to judicial review prior to the announcement of the final results. Notwithstanding, all ODIHR NAM interlocutors expressed overall confidence in the complaints and appeals system and the impartiality of the election authorities and judiciary.

Voter registration is the only area where election-related complaints are allowed prior to election day. Decisions of municipal authorities on voter lists can be appealed to the Federal Administrative Court within two days, with a final court decision made within four days.¹⁹ Appeals on decisions of *KommAustria* and the IPPTP are subject to adjudication within a six months deadline.

Challenges to the election results can be made to the Constitutional Court within four weeks after their announcement and its decisions are final. Such complaints can only be filed by a campaigning party or by a person who was allegedly unlawfully excluded from standing as candidate, but not by individual voters, which is at odds with a prior ODIHR recommendation.²⁰ The law does not define a deadline for adjudication of these complaints by the Constitutional Court.

IV. CONCLUSIONS AND RECOMMENDATION

All ODIHR NAM 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 elections that would benefit from a new assessment by ODIHR. Based on this, the ODIHR NAM does not recommend deploying an election-related activity for the upcoming early parliamentary elections. However, ODIHR encourages the authorities of Austria 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. ODIHR stands ready to offer its assistance upon request in a post-election follow-up process.

¹⁹ A complaint on voter registration issues can be additionally filed to the Constitutional Court if it is framed as a violation of a fundamental right, but this can only be done after the elections.

²⁰ Section 3.3.f of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that “all candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections”.

ANNEX: LIST OF MEETINGS

Federal Ministry for Europe, Integration, and Foreign Affairs

Jürgen Heissel, Minister Plenipotentiary, Permanent Mission of Austria to the OSCE
Barbara Pfeiffer, Specialist, Expatriates Abroad

Federal Ministry of Interior

Robert Stein, Head, Department of Electoral Affairs
Gregor Wenda, Deputy Head, Department of Electoral Affairs

City Council of Vienna

Christine Bachofner, Head, Election Department MA-62
Christian Ruzicka, Deputy Head, Election Department MA-62
Otto Gmoser, Head of Unit, Vienna Election Registry

Austrian Communications Authority

Michael Ogris, Chairperson
Susanne Lackner, Deputy Chairperson

Independent Political Parties Transparency Panel

Michael Kogler, Legal Service

Political Parties

Markus Tschank, MP, Freedom Party of Austria
Alma Zadic, MP, the Greens
Thimo Fiesel, Campaign Manager, the Greens
Robert Luschnik, the New Austria Party (NEOS)
Stephan Mlczoch, Politics and Strategy Adviser, New People's Party
Stephan Riedl, Politics and Strategy Adviser, New People's Party
Andrea Brunner, Executive Director, Federal Women Organization, Social Democratic Party
Rudolf Schicker, Member of Federal Election Board, Social Democratic Party

Austrian Broadcasting Corporation (ORF)

Eva Karabeg, Director, News Board

Civil Society

Michael Lidauer, Member, Citizen Election Observation Organization *Wahlbeobachtung.org*