



Office for Democratic Institutions and Human Rights

# SWISS CONFEDERATION

## FEDERAL ASSEMBLY ELECTIONS

22 October 2023

### ODIHR NEEDS ASSESSMENT MISSION REPORT

11 - 13 July 2023



Warsaw  
13 September 2023

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**SWISS CONFEDERATION  
FEDERAL ASSEMBLY ELECTIONS  
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**ODIHR Needs Assessment Mission Report  
11-13 June 2023**

## **I. INTRODUCTION**

Following an official invitation to observe the 22 October 2023 Federal Assembly elections and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) to Switzerland from 11 to 13 July. The NAM comprised Ana Rusu, ODIHR Senior Election Adviser, and Goran Petrov, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the Federal Assembly 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 federal and cantonal institutions, the election administration, as well as representatives of political parties, media, civil society and the international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Federal Department of Foreign Affairs for their assistance and co-operation in organising the visit. ODIHR would also like to thank all its interlocutors for meeting with the mission and sharing their views.

## **II. EXECUTIVE SUMMARY**

Switzerland is a federal state with a parliamentary system of governance, incorporating cantonal authority, linguistic diversity, and a long tradition of direct democracy through regularly held referendums and popular initiatives. The cantons enjoy broad autonomy and have their own constitutions, laws, parliaments, governments and courts. At the federal level, the 200-member National Council (NC) represents the overall electorate, and the 46-member Council of States (CoS) represents the cantons.

Following the October 2019 elections, eleven political parties are represented in the Parliament. Women are generally underrepresented in public office. While the representation of women in NC increased after the 2019 elections to 41 per cent, only 29 per cent of CoS MPs are women. In cantonal parliaments, on average, less than a third of MPs are women.

The federal law sets general conditions and minimal standards for holding the NC elections, and the cantons are responsible for detailed regulations and for running the elections. The CoS elections are under the cantons' exclusive competence. The electoral legal framework remained largely unchanged since the 2019 federal elections except for the newly introduced regulations for transparency of political party and campaign financing and amendments related to the internet voting trials. A number of prior ODIHR recommendations related to internet voting, candidate registration and postal voting were addressed, while some require further attention, such as the equality of suffrage rights for the CoS elections and regulating the rights of election observers..

The NC elections are conducted under a proportional system, except in the cantons that return only one member, where a majoritarian system is used. The CoS elections are mostly majoritarian races, with possible second rounds held in November. The election system grants freedom to parties to compete

and for voters to express their choices in various ways, but for the CoS elections, there are variations in suffrage rights among cantons that affects the equality of political rights. Voters with various types of disabilities may face difficulties participating on an equal basis given the system's complexities.

The administration of federal elections is highly decentralized and varies substantially among cantons and communes. All ODIHR NAM interlocutors expressed a high level of confidence in the impartiality and professionalism of the election administration bodies at all levels. The Federal Chancellery is responsible for ensuring that the federal standards are adhered to and oversees the conduct of the internet voting trials. While it produces a booklet and maintains an information website with easy-to-read language, some ODIHR NAM interlocutors assessed that further efforts are needed to ensure full accessibility of persons with various disabilities.

The law allows voting in person, by post, and in federally approved trials over the internet. Voting by post is well established and used by more than 90 per cent of the electorate. All ODIHR NAM interlocutors expressed confidence in the possibility of voters voting without undue influence. According to several ODIHR NAM interlocutors, most polling stations are suitable for independent access, but persons with visual impairments may face difficulties if they want to vote independently due to the lack of visual aids for marking the vote and accessibility features on the paper ballots.

In 2022, the federal government considerably revised the internet voting regulations and reported improvements in verifiability, security, quality control, risk assessment and mitigation. In August 2023, it authorized internet voting trials in three cantons for the 2023 federal assembly elections. All ODIHR NAM interlocutors expressed confidence in internet voting, though some parties cautioned that the system must be sufficiently used and tested and thus proven secure before being fully implemented. Many noted that it is particularly beneficial to voters abroad and those with visual impairments but also said they may be unable to verify their votes independently.

Citizens over 18 are eligible to vote unless deprived of legal capacity, contrary to international standards. Some 5,567,120 citizens will be eligible to vote in these elections, and the ODIHR NAM interlocutors expressed confidence regarding the accuracy and inclusiveness of the voter register. Owing in part to what interlocutors consider to be a difficult process of acquiring Swiss citizenship, an additional 2.3 million foreign nationals residing in Switzerland, or 26 per cent of the total population, are without the right to vote in federal elections.

Citizens with the right to vote can stand for the NC elections but candidate eligibility criteria for CoS elections vary widely, despite previous ODIHR recommendations. ODIHR NAM interlocutors did not raise any concerns about the inclusiveness of the candidate registration process. There are no legal requirements to promote women candidates, and only some parties have set internal policies on the number and placement of women on candidate lists.

Following a long public debate and a number of initiatives, the Parliament introduced regulations on the transparency of party and campaign financing. Anonymous donations and donations from non-Swiss citizens abroad are now prohibited for NC elections. The law also introduces interim and post-election reporting requirements on income totals and individual donations surpassing CHF 15,000. There are no donation limits or any regulation of expenditures. Most ODIHR NAM interlocutors welcomed these measures and underlined that the forthcoming elections will be an initial test of their efficacy.

The media landscape is pluralistic, with numerous local media in the four Swiss linguistic regions. However, declining revenues have negatively impacted the diversity of broadcast media, particularly at the regional level. Many media outlets intend to cover the election campaign extensively, facilitating the possibility for voters to make an informed choice. The public broadcaster plans to conduct various

debates and other programs. The ODIHR NAM was informed that while accessibility technologies are being increasingly utilized, they are still not universally available, especially during TV debates.

Despite prior ODIHR recommendations, the federal legislation does not contain provisions for international or citizen election observation, but all election stakeholders showed openness to co-operate with a potential ODIHR election observation activity.

All ODIHR NAM interlocutors noted that international observers are welcome, but most also noted that a comprehensive election observation activity would not be necessary. At the same time, they said that an external review of the newly introduced requirements for transparency of campaign financing would be of benefit. Interlocutors also saw value in ODIHR's assessment of the trials of the newly-revised internet voting system and the ability of persons with disabilities to participate in the election process fully and independently. On this basis, the NAM recommends deploying an Election Expert Team for the 22 October 2023 Federal Assembly elections to assess the political and campaign financing framework, the internet voting trials, and the possibilities for equal participation of persons with disabilities.

### III. FINDINGS

#### A. POLITICAL BACKGROUND

Switzerland is a federal state with a parliamentary system of governance. The institutions reflect a complex federal structure incorporating cantonal authority, linguistic diversity, and a long tradition of direct democracy through regularly held referendums and popular initiatives.<sup>1</sup> Its three-tiered political system, although segmented, is stable and comprises federal authorities, 26 cantons, and 2,136 communes. The cantons enjoy broad autonomy and have their own constitutions, laws, parliament, government and courts.

At the federal level, legislative power is exercised by the Federal Assembly, a bicameral parliament consisting of the National Council (NC) and the Council of States (CoS) elected for four years. The 200-member NC represents the overall electorate, and the 46-member CoS represents the cantons. The two chambers have equal powers. Following the October 2019 elections, eleven political parties are represented in the Parliament, forming six parliamentary groups.<sup>2</sup>

Executive power is vested in the seven-member Federal Council, which the Federal Assembly elects.<sup>3</sup> As a long-established practice, the Federal Council seats are allocated to parties based on their

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<sup>1</sup> All constitutional amendments approved by the Federal Assembly and Swiss membership in international organisations are subject to mandatory referendums. Separately, popular initiatives which allow citizens to propose amendments to the federal constitution are held if the organizer collects at least 100,000 signatures within 18 months. Federal acts and other enactments of the Parliament are subjected to optional referendums, held if at least 50,000 signatures are collected within 100 days of the law being passed. Swiss voters vote on referendums and popular initiatives up to four times each year and typically vote on several such initiatives.

<sup>2</sup> Parties and their representation in the National Council and Council of States, respectively: Swiss People's Party (53 and 7 seats), Social Democratic Party (39 and 6 seats), The Liberals (29 and 12 seats), Christian Democratic People's Party (25 and 14 seats) and Green Party (28 and 5 seats). In addition, the following parties are represented in the National Council: Green Liberal Party (16 seats), Conservative Democratic Party (3 seats), Evangelical People's Party (3 seats), and Federal Democratic Union, *Ensemble à Gauche*, Swiss Party of Labour and Ticino League (1 seats each). One CoS MP is unaffiliated. On 1 January 2021, the Christian Democratic People's Party and the Conservative Democratic Party merged to form The Centre Party.

<sup>3</sup> The Council is a collegial body and represents the country as a collective head of state, with its largely ceremonial presidency rotating annually among Council members.

parliamentary strength and include the four largest parties.<sup>4</sup> The practice of proportionality in decision-making extends to all levels of government, resulting in opposition being included in the ruling structures and parliamentary opposition not always running along political party lines.

Women are generally underrepresented in public office. Altogether, women comprise only 29.2 per cent of cantonal parliament members.<sup>5</sup> Currently there are 81 women in the NC (41 per cent), an increase compared to 64 (32 per cent) women elected in 2015, and only 13 in the CoS (29 per cent).<sup>6</sup> In its circular letter related to the upcoming elections, the Federal Council invited the cantonal governments to take note about women's underrepresentation in the assembly and to further raise voters' and parties' attention a need to increase women's participation in the upcoming elections.<sup>7</sup> Currently, three out of seven Federal Council members are women.

ODIHR deployed Election Assessment Missions in 2007 and 2011 and, most recently, an Election Expert Team in 2015 to assess the 2015 federal assembly elections.<sup>8</sup> The final report issued in February 2016 looked specifically into some aspects of election administration and trialing of internet voting and contains six recommendations for the authorities to improve the electoral process and bring it closer in line with OSCE commitments.<sup>9</sup>

## B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The Federal Assembly elections are primarily regulated by the 1999 Federal Constitution (last amended in 2022), the 1976 Federal Act on Political Rights (FAPR, last amended in 2022), and the 1978 Federal Decree on Political Rights (FDPR, last amended 2022), as well as corresponding legislation at the cantonal level. The 2014 Swiss Abroad Act includes measures to support voting from abroad. Switzerland is party to major international and regional instruments related to democratic elections.

The federal law sets general conditions for holding the National Council elections, including those related to suffrage rights, candidate lists, and the distribution of mandates. The cantons are responsible for adopting and implementing detailed regulations and the implementation of the election process overall. The Council of States elections are under the cantons' exclusive competence.

The electoral legal framework remains largely unchanged since the last federal elections held in 2019 with the exception of amendments regulating political donations and campaign expenditure introduced in 2021 and the conduct of internet voting trials introduced in 2022. In general, the ODIHR NAM interlocutors stated that the electoral legal framework provides a solid basis for holding democratic federal elections and believe that the newly introduced regulation will increase campaign spending transparency and political parties' accountability. A number of prior ODIHR recommendations related to internet voting, candidate registration and postal voting were addressed, while some require further

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<sup>4</sup> By the agreed formula, first applied in 1959, the Council includes two members from each of the three largest parties and one from the fourth largest party.

<sup>5</sup> See the Federal Statistics Office's [historical overview](#) of women representation in the National and cantonal assemblies.

<sup>6</sup> The October 2022 UN CEDAW [Concluding observations on the sixth periodic report of Switzerland](#), which recognizes the increase in the number of women MPs in the NC, but notes with concern that women representation in CoS, cantonal and communal levels remains low.

<sup>7</sup> See chapter 3 of the 19 October 2022 [circular letter](#) from the Federal Council to the cantonal governments on the general election of the National Council.

<sup>8</sup> See previous ODIHR [election-related reports on Switzerland](#).

<sup>9</sup> In paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations."

attention, such as the equality of suffrage rights for the CoS elections and regulating the rights of election observers.

The 200 seats of the NC are allocated to the cantons in proportion to their resident population.<sup>10</sup> Each of the 26 cantons is a single constituency that elects from 1 to 36 MPs. Elections are conducted under a proportional system, except in the cantons that return only one member, where a majoritarian system is used.<sup>11</sup>

In the proportional races for the NC, voters choose among candidate lists put forward by political parties or any group of citizens. Voters vote by selecting a list of candidates but can also modify the list by crossing out names or writing in other candidates, reinforcing their vote for an already listed candidate or including names of candidates running on other lists. Voters may also compose their ballot by combining candidates from different lists within the constituency. In general, while the election system grants freedom to parties to compete in various ways and for voters to express their choice, some ODIHR NAM interlocutors mentioned that voters with disabilities may face difficulties participating on an equal basis given the system's complexities.

Some ODIHR NAM interlocutors stated that the election system disadvantages smaller parties, given the small number of mandates elected in most cantons.<sup>12</sup> To address the problem of wasted votes, the law allows parties to combine their lists for the initial distribution of mandates, thereby increasing their chances of winning mandates.<sup>13</sup> The federal law also allows parties to submit multiple candidate lists (sub-lists) to separately represent women, men, youth, or geographical areas within a canton.<sup>14</sup> Before these elections, the Federal Council clarified that different parties cannot enter into list sub-combinations with each other.<sup>15</sup> Some ODIHR NAM interlocutors remarked that this is a change that should be stipulated in the law.

Elections to the CoS are conducted under majoritarian systems, except in the cantons of Jura and Neuchâtel, which use proportional representation. Twenty cantons elect two members each, and six cantons elect one member each.<sup>16</sup> The first round will be together with NC elections, and if necessary, a second round will take place in November on dates decided by the cantons

### C. ELECTION ADMINISTRATION

The organization and administration of federal elections are highly decentralized and vary substantially among cantons and communes. All ODIHR NAM interlocutors expressed a high level of confidence in the impartiality and professionalism of the election administration bodies at all levels.

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<sup>10</sup> Since the 2019 National Council elections, Zurich gained one seat, while Basel-Stadt lost a seat. See the [September 2021 Federal Council's Ordinance](#) on the allocation of seats.

<sup>11</sup> For the proportional races, the number of valid votes per list (or combined list) is divided by the number of mandates to be allocated plus one, which calculates the distribution number. The lists shall be allocated as many mandates as the distribution number is included in its number of votes. For majoritarian races, first-past-the-post principle applies; where set by the cantonal law, a candidate is elected unopposed if a single nomination is submitted by the deadline of 4 September.

<sup>12</sup> Forty per cent of MPs in the National Council are elected from 20 cantons each electing less than 10 MPs.

<sup>13</sup> Combined lists are indicated on the ballots.

<sup>14</sup> For example, in Bern, some parties traditionally submit separate men and women lists.

<sup>15</sup> See the [circular letter](#) of the Federal Council to the cantons and the [legal clarification](#) of the National Council's Political Affairs Committee. On 25 August, acting upon a complaint, the Federal Supreme Court confirmed the legal clarification by the election authorities

<sup>16</sup> The cantons of Appenzell Outer Rhodes, Appenzell Inner Rhodes, Basel-Landschaft, Basel-Stadt, Nidwalden, and Obwalden elect one CoS MP each. These cantons elect one CoS seat, as a result of splitting of several previous cantons. The CoS MP from the canton of Appenzell Innerrhoden was already elected in April 2023.

The Federal Chancellery is responsible for ensuring that the federal standards for the NC elections are adhered to, including on candidate registration and transmission of election results. It also oversees the preparation and conduct of internet voting trials, and publishes the final nationwide results. The chancellery conducts voter information programmes through a vote info application, publishing voting instructions, and distributing leaflets to all voters, including and campaign information of all relevant contestants. While the chancellery maintains a dedicated website and a printed booklet with easy-to-read language, some ODIHR NAM interlocutors assessed that further efforts are needed to ensure full accessibility of persons with various disabilities as provided by CRPD.<sup>17</sup>

The cantonal chancelleries are responsible for organizing the NC and CoS elections. They form polling election boards, prepare voter lists, register candidates or candidate lists, print and deliver voter cards and materials for postal voting, including for voters abroad, and collect election results. Some cantons further delegate responsibilities to the communes, particularly preparing voter lists and setting polling stations.

The Federal Chancellery informed the ODIHR NAM that it holds meetings with cantonal election authorities at least once a year to familiarize them with the rules and procedures and good electoral practices and explain any legislative changes. It also holds informational events with political parties, most recently in June 2023, focusing on security aspects of campaigning online, and dealing with potential foreign interference and misinformation.

#### D. VOTING METHODS

The law allows a voter to vote in person or by post, and in federally approved trials, over the internet (see *Internet Voting*). Voting by post is well established and the preferred voting method used by more than 90 per cent of the electorate.<sup>18</sup> All ODIHR NAM interlocutors expressed full confidence in the available voting methods and the possibility of voters voting without undue influence despite postal voting being conducted in an uncontrolled environment.

Voters can cast their ballot in person at their registered polling station upon presentation of the voter identification card. Polling stations are limited in number and open for a limited period on election day, generally between 10.00 and 12.00. Federal law also obliges cantons to provide for early voting at polling stations for at least two of the last four days before election day. According to several ODIHR NAM interlocutors, most polling stations are suitable for independent access to voters with physical disabilities, as they are located in public buildings that, by law, must be accessible.

All cantons are required to provide a postal voting option, including to voters registered to vote abroad.<sup>19</sup> All ODIHR NAM interlocutors expressed trust in the ability of Swiss Post to deliver voting materials securely, without misuse, and in due time for the ballots to be completed and returned, with very few isolated cases of malpractice.<sup>20</sup> As an exception, some interlocutors claimed that ballots of several

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<sup>17</sup> The [elections 2023 website](#) is available in German, French, Italian, Romansh and English. In its 2022 [Concluding observations on Switzerland](#), the UN Committee on the Rights of Persons with Disabilities recommended to: ‘allocate sufficient funding for the development, promotion and use of accessible communication formats, such as Braille, deafblind interpretation, sign language, Easy Read, plain language, audio description, video transcription, captioning and tactile, augmentative and alternative means of communication’.

<sup>18</sup> See, for example, this [report](#) on postal voting.

<sup>19</sup> Voters do not have a possibility to vote in person from abroad.

<sup>20</sup> In 2016 local elections in Bern, some 300 votes were declared invalid due to identical handwriting. In 2019, police questioned an employee of the Geneva electoral office on suspicion of destroying or replacing postal ballots.

voters residing in remote locations were not returned in time to be counted in past elections, also due to dependence on foreign postal systems.<sup>21</sup>

Voters with disabilities may be assisted by a person of their choice; however, many ODIHR NAM interlocutors described difficulties that persons with visual impairments face if they want to vote independently.<sup>22</sup> While the federal government has a program to design stencils for voting in public initiatives and referendums, no such instruments will be available for the federal elections due to the complex design of the ballots. Most ODIHR NAM interlocutors held that the solution for independent voting of persons with disabilities is internet voting.

## E. INTERNET VOTING

Internet voting is part of Switzerland's long-standing strategy and a joint initiative of federal and cantonal authorities. It has been tested since 2004 in over 300 trials in 15 cantons, including twice in federal assembly elections. In 2015, the ODIHR election expert team concluded that the trials were administered professionally and in line with the legal framework but recommended that additional measures should be implemented to enhance transparency and accountability. Many prior ODIHR recommendations were addressed, but its implementation remains to be assessed in practice, including in relation to verifiability, increased transparency, and independent certification and audit procedures.

Until 2019, two internet voting systems were available to cantons, a system developed and operated by the Canton of Geneva and another by the Swiss Post. The further integration of internet voting as a regular channel was paused in 2019, and the Federal Council mandated the Federal Chancellery to work with cantons to re-design the process.<sup>23</sup> By 2021, following a public consultation process that included working closely with the academic community, the election authorities reported that they re-designed the trial framework to improve the complete verifiability of the systems, security elements, quality control, and risk assessment and mitigation criteria for the cantons.<sup>24</sup> In 2022, the federal authorities considerably revised the internet voting regulations.<sup>25</sup>

On 16 August, the federal government authorized limited-scope internet voting trials for the federal assembly elections for the voters residing abroad, in cantons of Basel-Stadt, St. Gallen and Thurgau. In addition, voters with any permanent disability in Basel-Stadt, and voters registered in several communes in St. Gallen will be able to vote over the internet.<sup>26</sup> Voting will open either from 18 or 25 September, depending on the canton, and closed at noon on the day before election day. Voters vote through a standard browser by first identifying themselves through a personalized passcode they receive over regular mail.

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<sup>21</sup> The law mandates election authorities in cantons to dispatch election materials between four and three weeks before election day.

<sup>22</sup> According to the [Swiss National Association of and for the Blind](#), up to 377,000 Swiss citizens are potentially affected. See also 2022 Concluding observations on Switzerland that recommends to: 'ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including by ensuring the accessibility of the voting process to all persons with disabilities, including those in institutions, and by providing opportunities and support for persons with disabilities to be politically active and stand for election in all cantons and at the federal level.'

<sup>23</sup> In November 2018, the Canton of Geneva stopped developing its system, citing difficulties in developing the system of such complexity on its own. In 2019, following the publication of the Swiss Post's source code, security flaws related to verifiability were identified, which led to its withdrawal.

<sup>24</sup> See the Nov 2020 Federal Chancellery's [Final report on redesign and relaunch of the e-voting trials](#).

<sup>25</sup> See the [FDPR](#) and the 25 May 2022 [Federal Chancellery Ordinance on Electronic Voting](#).

<sup>26</sup> The trials includes some 65,000 voters, or 1.2 per cent of the electorate. In the June 2023 trials during the vote on public initiatives in the same three cantons, a total of 4,239 eligible voters voted over the internet, or 18 per cent of all voters eligible to participate in the trials.

Voters can vote over the internet only once, despite the perceived advantages to the secrecy if voters were provided with the possibility of casting ballots multiple times, each time replacing their last cast internet vote. The Federal Chancellery explained to the ODIHR NAM that this design decision follows the principle of keeping this voting method as close to postal and in-person voting as possible. The system gives voters the opportunity to verify their vote through a two-step process and the regulations further prescribe universal verifiability performed by auditors.

Most political parties support the continuation of the internet voting trials, though some caution that the system must be sufficiently used, tested and proven to be secure before it is fully implemented in federal elections. All ODIHR NAM interlocutors expressed their overall confidence in the internet voting system. Many also noted that its use would be particularly beneficial to voters residing abroad and voters with visual impairments but also warned that persons with visual impairments may not be able to independently verify their votes, as the voter cards with verification codes do not contain any accessibility features.

## F. VOTER REGISTRATION

Citizens over 18 are eligible to vote unless deprived of legal capacity and placed under guardianship by the cantonal adult protection authority.<sup>27</sup> ODIHR has previously noted that disenfranchisement based on any disabilities, including intellectual and psychosocial disabilities, is contrary to international obligations and standards.<sup>28</sup> For CoS elections, voting rights are set out in cantonal laws, leading to significant variations that remain unaddressed, despite prior ODIHR recommendations.

Voter registration is passive. Voter lists are compiled by the communes or cantons based on the population registers and must be closed for changes five days before elections.<sup>29</sup> The FAPR provides the possibility for inspecting voter lists by any voter. ODIHR NAM interlocutors expressed confidence regarding the accuracy and inclusiveness of the voter register.

Some 5,567,120 citizens will be eligible to vote in these elections. An additional 2,294,600 foreign nationals reside in Switzerland, or 26 per cent of the total population, who do not have the right to vote in federal elections.<sup>30</sup> While most ODIHR NAM interlocutors perceive citizenship as an admissible restriction on suffrage for federal elections, some underlined that the citizenship law provides an overly restrictive naturalization process.<sup>31</sup>

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<sup>27</sup> The restriction on voting in federal elections by citizens with mental disabilities is constitutionally imposed. In 2020, Geneva [became](#) the first canton to permit voting in canton-level elections to all voters regardless of disabilities and several other cantons are considering similar initiatives.

<sup>28</sup> See article 29 of the [Convention on the Rights of Persons with Disabilities](#) (CRPD) which requires states to guarantee to persons with disabilities political rights, including rights “to vote and be elected”, and does not provide for any reasonable exclusion from these rights. Article 12 of the CRPD further requires equal recognition before the law. See also Paragraph 56 a) of the [2022 CRPD Concluding observations on Switzerland](#) which recommends to: ‘repeal all legal provisions at the federal and cantonal levels that result in persons with disabilities, in particular those with intellectual or psychosocial disabilities, being denied their right to vote.’

<sup>29</sup> Since 2008, [the federal law](#) provides for an efficient exchange of residence and election registration data among the cantons.

<sup>30</sup> As an exception, cantons Jura and Neuchâtel permit voting of foreign citizens in the CoS elections.

<sup>31</sup> The law requires applicants to be resident for at least ten years and fulfill several integration conditions including advance language skills, citizenship tests, and economic and criminal record requirements. In recent years, there were a number of failed parliamentary initiatives to liberalize naturalization requirement. See also the current CSO-led [“Democracy Initiative”](#).

The federal law mandates all cantons to allow citizens residing abroad to vote and stand in the NC elections.<sup>32</sup> After registering according to their last commune of residence (or, in the absence of such, the commune of origin), voters remain listed for all future voting processes unless the dispatched election material gets reported as undelivered three times in a row. In contrast to the NC elections, only 13 cantons provide the right for citizens abroad to vote in the CoS elections.<sup>33</sup>

## G. CANDIDATE REGISTRATION

Citizens with the right to vote can stand for NC elections.<sup>34</sup> For proportional contests, candidate lists must be supported by signatures.<sup>35</sup> Political parties that are represented in the NC or have won at least three per cent in the given canton in the previous election are not required to collect signatures. Voters may not sign in support of more than one candidate list.

Candidate eligibility criteria for the CoS elections vary widely across cantons, despite previous ODIHR recommendations and the possible impact it may have on the principle of equality of political rights of all citizens.<sup>36</sup>

For NC elections, the deadlines for submitting candidate lists were by the end of August, with the specific deadlines individually determined by the cantons. The lists may contain a maximum of as many candidates as MPs being elected. Each candidate may be nominated only once, and the Federal Chancellery checks all lists against duplicate candidacies. No ODIHR NAM interlocutors raised any specific concerns about the inclusiveness of the candidate registration process.

While no legal requirements to promote women candidates exist, some parties have internal policies on the number and placement of women on candidate lists.<sup>37</sup> As in the 2019 elections, an alliance of women organizations has initiated a project aiming to increase the number of women MPs, which includes working directly with political party leaders to pledge an increase of women candidates on their lists.<sup>38</sup>

Some ODIHR NAM interlocutors noted an increase in the number of persons with disabilities on candidate lists but were of the opinion that there is room for improvement.<sup>39</sup>

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<sup>32</sup> According to the [Federal Statistical Office](#), more than 800,000 Swiss citizens reside abroad. According to the information compiled by the [Organization of the Swiss Abroad](#), 27 per cent of those registered abroad have registered to vote abroad.

<sup>33</sup> The cantons of Aargau, Basel-Landschaft, Basel-Stadt, Bern, Fribourg, Geneva, Graubünden, Jura, Neuchâtel, Schwyz, Solothurn, Ticino, and Zurich.

<sup>34</sup> Federal Council members, federal judges, federal civil servants and high-ranking military personnel must resign to take their mandate if elected.

<sup>35</sup> List submitters must collect a minimum of 100 support signatures in cantons electing 2 to 10 MPs, 200 in cantons electing 11 to 20 MPs, and 400 with more than 20 MPs.

<sup>36</sup> For example, citizens abroad are entitled to stand for election in some cantons, but not in others. Cantonal officials in some cantons are required to resign if elected to a federal office, while in others they may hold more than one position. In several cantons, there are no formal candidate lists and all ballots are write-in, while in others, candidates can stand online if listed on candidate lists.

<sup>37</sup> The October 2022 UN CEDAW [Concluding observations on the sixth periodic report of Switzerland](#) recommended that the state should “[a]dopt minimum quotas for women’s and men’s representation in legislative assemblies at the federal, cantonal and communal levels, including for women belonging to minorities”.

<sup>38</sup> See the project “[Helvetia is calling!](#)” As of 1 June 2023, the project leaders [reported](#) a number of pledges across political parties currently represented in the parliament to increase women candidates for these elections.

<sup>39</sup> In March 2023, the Parliament [hosted a special session](#) that included representatives of disability organizations, and resulted in a resolution to strengthen political representation of persons with disabilities, including through their registration on candidate lists.

## H. ELECTION CAMPAIGN

The Constitution explicitly guarantees freedoms of assembly, association, expression and the use of any language. As an exception, in Geneva, the cantonal law requires a pre-approval for any gatherings in public from a competent cantonal authority submitted at least 30 days before the event.<sup>40</sup>

In addition to federal elections, parties campaign throughout the year, including for commune and cantonal elections, popular initiatives and referendums. Political parties campaign on a number of issues that also correspond to their ongoing policy initiatives and agendas, including social protection and taxation, environment and climate change, energy, security and foreign affairs, immigration and equality of opportunities. Most parties reflect the federal-cantonal model, and the campaigns are run by cantonal and commune party chapters, while the federal party offices provide some guidelines, slogans and uniform campaign design. Some parties actively promote overcoming barriers for persons with disabilities to actively participate in national politics. For these elections, an umbrella of youth organizations is actively promoting young candidates, and runs projects for encourage political participation and voting of the young and first-time voters.<sup>41</sup>

Parties intend to use both the traditional means of campaigning, through placing posters, canvassing and organizing meetings with voters and also actively use online social networks. Xenophobia and hate speech online are areas of concern for some political parties.<sup>42</sup>

## I. CAMPAIGN FINANCE

Political parties do not receive federal public financing for their activities or for campaigning and depend entirely on donations and the voluntary work of their members. Following a long public discussion driven by civil society initiatives, in June 2011, the Parliament introduced several measures to increase the transparency of party and campaign financing, which came into force in October 2022. The legal changes prohibit donations from abroad, except from Swiss citizens, and anonymous donations for NC elections. This prohibition does not apply to the CoS elections, but after the elections, the MPs must report all anonymous donations and donations from abroad. Further, there is no regulation of campaign spending.

Parties represented in the Federal Assembly are now obliged to report their annual income and separately specify annual individual contributions by MPs and donations exceeding CHF 15,000 (approx. EUR 15,700). Further, all contestants running election campaigns with election funding exceeding CHF 50,000 must report their total income and the total donations of all donors who donate monetary and in-kind donations exceeding CHF 15,000 per donor per campaign, including the identities of the donors. Some ODIHR NAM interlocutors opined that the amount for disclosure of individual donations is excessively high.

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<sup>40</sup> The Geneva canton introduced the restrictions in the Law on Demonstrations in the Public Domain in 2012. Most recently, in January 2021, the Justice and Police Commission of the Geneva Cantonal Council rejected a draft bill submitted by [a group of civil society organizations](#) to differentiate between organization of commercial and non-commercial events such as protests and rallies.

<sup>41</sup> See the [#GoVote2023](#) campaign website.

<sup>42</sup> In 2021, the Federal Commission against Racism launched [a platform](#) to report racist hate speech. A total of 163 racist posts or comments were reported from November 2021 to November 2022 and some 100 pieces of xenophobic online content. See also the 2022 [report](#) by the Network of Counseling Centers for Victims of Racism. See also paragraph 7 of the 2023 [Fifth Opinion on Switzerland](#) by the CoE Advisory Committee on the Framework Convention for the Protection of National Minorities which notes “an increase in racism and intolerance, including antigypsyism, antisemitism, anti-Muslim and anti-Black racism, particularly in social media. Efforts by the authorities to combat all forms of racism and intolerance are insufficient.”

All ODIHR NAM interlocutors, including from among the political parties, welcomed the transparency measures as it will allow the media and other election stakeholders to assess the impact of money in the national politics. However, some interlocutors claimed that the identities of large donors can still be occluded through potential loopholes, such as donating through associations, which are not required to disclose the identities of individual donors or companies. Some interlocutors also see a possibility for individual donors to donate to multiple campaigners within the same or different parties, each time less than CHF 15,000, without their identity being disclosed in any of the contestants' financial disclosures."

The federal government assigned the responsibility for auditing and publishing parties and contestants' financial reports to the Swiss Federal Audit Office (SFAO), an independent institution with experience in conducting financial and performance audits. Due to the complexity of the new regulation, the SFAO worked closely with the political parties to address their concerns and put together guidelines available on its website.<sup>43</sup> For NC elections, the campaigns must submit interim income reports to the SFAO 45 days before elections and final reports 60 days after elections.<sup>44</sup> The SFAO checks if the reports are complete, but it will also conduct random visits to the contestants' headquarters for detailed financial checks.<sup>45</sup> The SFAO must publish the financial reports within 15 days of receiving them.

The newly introduced measures address some long-standing GRECO and ODIHR recommendations related to campaign finance transparency, but their impact is yet to be determined.<sup>46</sup> Most ODIHR NAM interlocutors underlined that the forthcoming elections will be an initial test of the efficacy of the new measures and of the capacity of the electoral contestants to implement and adhere to the new legal provisions.

## J. MEDIA

The Federal Constitution guarantees freedom of expression and the media. However, insult, defamation and slander are all defined as criminal offences punished by a fine or imprisonment for a maximum of three years. On numerous occasions, ODIHR has recommended decriminalizing all types of defamatory statements. Media are largely self-regulated, and there is no specific legislation covering the role of the media during elections, but more generally, the law instructs the electronic media to consider diversity, equality, and objectivity when covering political events. However, some ODIHR NAM interlocutors noted that women politicians and candidates remain underrepresented in the media.<sup>47</sup>

The media landscape is pluralistic, and the market is principally structured along linguistic lines, with numerous local media present in each of the four Swiss linguistic regions. However, in recent years, media companies have faced declining revenues due to rapid development of online media and digitalization, which negatively impacted the diversity of broadcast media, particularly at the regional level.<sup>48</sup> The public broadcaster, Swiss Broadcasting (SRG SSR), is the only national broadcaster and

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<sup>43</sup> See the SFAO [Q&A](#) produced in advance of these elections.

<sup>44</sup> The income reports must include the total amount of revenue, and separately state the total monetary donations, in-kind donations, income from events, income from the sale of goods and services, own monetary resources, and explicitly mention which candidates are supported by the expenses.

<sup>45</sup> In case of identified irregularities or failure to submit income reports, the SFAO may ask the cantonal authorities to apply sanctions of up to CHF 40,000.

<sup>46</sup> In its June 2022 [Addendum to the Second Compliance Report on Switzerland](#), GRECO notes that some of their recommendations were partially implemented, and some, such as transparency of the financing of election campaigns by third parties, and conduct of independent audits are yet to be addressed.

<sup>47</sup> See the 2020 UN CEDAW [Concluding observations on the sixth periodic reports of Switzerland](#) which remarks on a "[c]ontinued underrepresentation of women candidates in media coverage in the run-up to elections, which constitutes a major obstacle to women's participation in political and public life."

<sup>48</sup> To alleviate the situation, in 2020 the Parliament adopted two emergency ordinances allocating significant financial aid, initially amounting to CHF 57.5 million.

runs seven television stations and 17 radio stations in the four official languages.<sup>49</sup> In addition, 32 local and 13 regional TV stations hold regional broadcasting licenses and hundreds of other radio and TV program services are transmitted over cable, satellite or digital platforms. The law forbids political advertising over broadcast media, with no such regulation for print media or advertising over social networks.

Many media outlets intend to cover the election campaign extensively, aiming to facilitate the possibility for voters to make an informed choice. As an established practice, the public broadcaster has produced internal instructions to ensure balanced coverage of electoral contestants and plans to conduct various debates and other programs under the responsibility of the regional SRG SSR entities. According to the SRG SSR, almost 80 per cent of its programming is accompanied by subtitling, sign language and audio descriptions for persons with auditory and visual impairments, including for main news and other prime-time linear programming.<sup>50</sup> The ODIHR NAM was informed that while accessibility technologies are being increasingly utilized, they are still not universally available, including during the TV debates between candidates.

Several bodies are in charge of different aspects of media oversight. For content in broadcast media, a complaint, a request for correction or an appeal of a refusal to broadcast can be submitted to the ombudspersons assigned to specific broadcasters that act as mediators.<sup>51</sup> If no agreement is reached between the parties within 40 days, a complaint can be filed with the Independent Complaints Authority (ICA), with a possible appeal to the Federal Supreme Court.<sup>52</sup> According to the ICA, more than 90 per cent of disputes are resolved through the initial mediation by ombudspersons, which provides an effective remedy. A separate body, the Federal Office of Communications, supervises advertising, including violations of the ban on political advertising.

## K. ELECTION DISPUTE RESOLUTION

The federal Constitution grants everyone the right to equal and fair treatment in judicial and administrative proceedings decided within a reasonable time and stipulates the right to be heard.

The FAPR regulates complaints and appeals for the NC elections. The cantonal election authorities review complaints in the first instance that must be submitted within three days of the claimed irregularity taking place and, if the complaint is related to voting, counting or tabulation, not later than three days after the results are published. According to some ODIHR NAM interlocutors, this deadline might be too short to prepare a complaint. The cantons must decide within ten days and provide remedies if an irregularity is established. By law, the cantons must reject all complaints that are not sufficient either in their nature or in their extent to have a material influence on the result of the vote as a whole. For the CoS elections, dispute resolution is fully regulated by cantonal legislation.

Appeals on the decisions of cantonal governments and the federal chancellery related to NC elections may be filed with the Federal Supreme Court (FSC) within three days, which has the authority to annul electoral contests in case of serious breaches. The FSC does not have deadlines to review the appeals. However, the FAPR sets the date for the first NC session to six weeks after the elections to validate the election results and the NC is constituted after at least a majority of MPs mandates are validated. The

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<sup>49</sup> The public broadcaster is mainly financed through the licensing fees collected from each household; 88 per cent of licensing fees go to SRG SSR, and 6 per cent to the licensed private media, while the remaining 6 per cent is used for media research and development.

<sup>50</sup> See the [information about accessibility to the programs](#) by various services of the public broadcaster.

<sup>51</sup> Of the eight ombudspersons, three cover the work of the public broadcaster and are appointed by it, while five cover all other broadcast media and are appointed by the Independent Complaints Authority (ICA).

<sup>52</sup> ICA members are formally appointed by the Federal Council, but the Authority acts as an independent institution.

FSC informed the ODIHR NAM that the court will try to resolve all possible appeals in advance of the first session of the NC despite the limited time to do so. While the law does not stipulate what measures must be taken if the FSC annuls the election of more than half MPs of the NC, such as deadlines for the conduct of repeat elections, it prescribes that the office of the outgoing NC ends after the new NC is constituted.

#### **L. CITIZEN AND INTERNATIONAL OBSERVERS**

Despite prior ODIHR recommendations, the federal legislation does not contain provisions for international or citizen election observation.<sup>53</sup> While some cantonal laws allow observation by political party representatives and voters during voting and counting, observation of the preparatory work of the election administration is unregulated. This is of particular importance in the context of widespread postal voting, where the voting process is not public.

Despite the lack of explicit legal provisions, ODIHR has received a timely invitation to observe the upcoming federal assembly elections, and all election stakeholders that ODIHR NAM met with showed openness to co-operate with a potential ODIHR election observation activity. In its 2022 circular letter to the cantons, the Federal Chancellery asks them to “grant unhindered access to the international election observers”.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

All ODIHR NAM interlocutors expressed a high level of confidence in the integrity of the electoral process and the ability of the election administration to organize elections professionally and transparently. While all ODIHR NAM interlocutors noted that international observers are welcome, most also noted that a comprehensive election observation activity would not be necessary. Nonetheless, most interlocutors pointed to the newly introduced regulatory framework for transparency of campaign financing and the benefits of an external review of its provisions and implementation. Interlocutors also saw value in ODIHR’s assessment of the trials of the newly-revised internet voting system and the ability of persons with disabilities to participate in the election process fully and independently. Therefore, based on the assessments noted in this report, the ODIHR NAM recommends deploying an Election Expert Team (EET) for the 22 October 2023 Federal Assembly elections to assess the political and campaign financing framework, the internet voting trials, and the possibilities for equal electoral participation of persons with disabilities.

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<sup>53</sup> In 2014, the Federal Council proposed to amend the FAPR to explicitly permit election observation. The Federal Assembly did not consider it necessary to enact the proposal, arguing that the international obligations apply directly.

## **ANNEX: LIST OF MEETINGS**

### **Officials and Institutions**

#### **Federal Department of Foreign Affairs**

Amb. Peneveyre Muriel, Head of Eurasia Division

Elena Trigo, Deputy Coordinator, Section Council of Europe and OSCE, Eurasia Division

#### **Federal Chancellery**

Julien Fiechter, Deputy Head, Political Rights Section

Evelyn Mayer, Subproject Manager Vote électronique

Alexandra Graf, Elections Administrator, Political Rights Section

Nina Wick, Deputy Elections Administrator, Political Rights Section

#### **Basel-Stadt Cantonal Chancellery**

Marco Greiner, Deputy State Secretary and Spokesperson

Daniel Högger, Head of Elections and Votes Section, State Chancellery

#### **Bern Cantonal Chancellery**

Moritz Zaugg, Head of Political Rights, State Chancellery

Annina Hauck Bässler, Deputy Head of Political Rights, State Chancellery

#### **Federal Supreme Court**

Corsin Bizas, Court Clerk, Public Law Division

#### **Federal Bureau for the Equality of People with Disabilities**

Andreas Rieder, Director

#### **Independent Complaints Authority for Radio and Television**

Pierre Rieder, Head of Secretariat

#### **Federal Office of Communications**

Thomas Häussler, Media specialist

#### **Swiss Federal Audit Office**

Daniel Hasler, Head of Transparency of Political Funding

Mario Luketić, Senior Administrator, Transparency of Political Funding

### **Political Party Representatives**

Adrian Michel, Deputy General Secretary, FDP The Liberals

Christian Steiner, Secretary of the Parliamentary Group, FDP The Liberals

Ahmet Kut, Co-Secretary General, Green Liberal Party

Julie Contolou, Co-Secretary General, Green Liberal Party

Eleonora Guido, Campaign Co-ordinator, Social Democratic Party

Dario Schai, Fundraising and Spending, Social Democratic Party

### **Media Representatives**

#### **SRG SSR Swiss Broadcasting Corporation**

Peter Zschaler, Deputy Director

Mark Livingston, Editor-in-Chief

**Civil Society Representatives**

Martin Hilti, Executive Director, Transparency International  
Nadine Aebischer, Head of Politics, Swiss National Youth Council

**International Community**

Representatives of diplomatic missions of Greece, Ireland, Norway, Poland, Russian Federation and Türkiye.<sup>54</sup>

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<sup>54</sup> The ODIHR NAM extended an invitation to representations of all OSCE participating States resident in Switzerland.