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1302nd MEETING OF THE OSCE PERMANENT COUNCIL  
VIA VIDEO TELECONFERENCE**

11 February 2021

**On the final report of the ODIHR observers on the general election  
in the United States of America**

Madam Chairperson,

We congratulate our US colleagues on the election of the 46th President of the United States of America, whom we wish to have much success for the benefit of his country and that of the world. We confirm our readiness to engage in constructive co-operation with the new Administration.

We have familiarized ourselves with the final report of the Limited Election Observation Mission deployed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the US presidential election. The large number of violations and instances of lack of compliance with OSCE commitments that have come to light attests to extremely serious problems in the US electoral system.

The ODIHR's criticism covers the entire spectrum of the country's voting system, including its foundations. In particular, according to the ODIHR, "[t]he Electoral College system is not in accordance with international good practice as it does not fulfil the principle of equality of the vote."

Of great interest is the point about there having been no positive advances in electoral legislation, despite the recommendations previously made by the ODIHR. It would seem that while US representatives constantly harp on about how participating States are obliged to implement the relevant ODIHR recommendations, their own country is failing to do that. The US Government is thus, in effect, implanting legal nihilism in the OSCE by serving as an example to other States of how to ignore the cornerstones of the Organization's work in the field of election monitoring. I should clarify that I am referring here not to ODIHR recommendations as such – these are often of an ambiguous nature – but to international commitments in that field.

This is corroborated by the way in which the United States consistently violates even its basic commitments under paragraph 8 of the CSCE Copenhagen Document of 1990. In connection with election after election, the ODIHR too has been pointing out the need for a universal approach to be developed at the federal level for granting observers access to polling stations; this is also noted in its current final report. However, the situation is not merely not being put right: it is deteriorating. While in 2016 the ODIHR

observers were denied access to polling stations in 17 states, by 2020 this number had increased to 18. International election observation is fully enshrined in legislation only in five states and in the District of Columbia. In the other states it is left to the discretion of the local authorities, which – judging by the remarks made by a number of governors – are not particularly well disposed towards such monitoring.

Something else that is incomprehensible from a modern perspective is the way in which millions of US citizens are denied the right to vote. Alarming, this is a clear manifestation of the racism that is systemic in the United States, for most of those citizens are African Americans and members of racial and ethnic minorities. Even the ODIHR acknowledges this. Moreover, the rights of persons with disabilities are violated as well: in 39 states, people with intellectual or psychosocial disabilities and those who are under guardianship face restrictions on their voting rights. This runs counter to the international obligations and commitments of the United States, including those under the United Nations Convention on the Rights of Persons with Disabilities, the CSCE Copenhagen Document of 1990 and so on.

Violations of several other human rights obligations have also been identified in connection with a number of additional aspects.

Significantly, if one excludes a couple of “technical” remarks, the ODIHR observers for some reason passed over a highly controversial aspect of the election that took place in the United States, namely postal voting. Yet, it was precisely such voting that proved to be a bone of contention in this election race: it was often carried out in violation of basic election-related requirements and gave rise to profound misgivings about massive fraud. We would remind you that in its “Opinion on the draft Act on Special Rules for Conducting the General Election of the President of the Republic of Poland ordered in 2020”, which it issued last April, even the ODIHR, a staunch adherent of postal voting as a voting method (alongside other methods), warned of the significant challenges arising from the use of that method.

We were no less puzzled by the ODIHR’s description of the post-election atmosphere in the United States as “peaceful”. Can one really regard it as such, when bitter quarrels took place across society over the legitimacy of the election’s outcome, when a veritable witch-hunt was unleashed against one of the candidates and his team, and when these conflicts culminated in the tragic events at the Capitol?

Bearing in mind the aforementioned factors among others, and also the unexpectedly complimentary conclusion by the ODIHR on how the election was allegedly “competitive and well managed”, there is reason to doubt that institution’s objectivity and whether it is independent of political directives coming from someone or somewhere else. This once again goes to show that the “gold standard” of election methodology is tainted, and that we must all return to the task of developing uniform and consensus-based rules for the monitoring of elections.

The United Nations Human Rights Council, too, has serious reservations about the human rights system in the United States, including election-related aspects. Its Working Group on the Universal Periodic Review (UPR Working Group) issued a report on the country in December 2020 for which it drew up a set of almost 350 recommendations. Analysis of these indicates that the United States has to work thoroughly on fixing its faults, which in most cases are of a chronic and systemic nature. This is something that has also been flagged by the US human rights community, notably in connection with the wave of violence and discrimination on racial, ethnic and social grounds that swept across the United States last year, with consequences that to this day continue to make themselves felt.

In particular, it is worth singling out the recommendations to the US Government that it ratify the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, which also chime in

with the recommendations made by the ODIHR in its final report on the US general election and with those of a number of United Nations special procedures. It is remarkable that a great many Member States of the United Nations insist on the necessity of such a step. In other words, this is a strong collective signal to the White House and the Capitol from the international community, which is concerned about the true state of affairs in that country.

The leaders of the United States are obliged to heed this signal – also with regard to introducing order in the realm of elections. Here are some distinctive recommendations by the UPR Working Group: “Ensure the right to vote without discrimination by increasing access to every method of voting allowed in each state or jurisdiction”; “Ensure that United States citizens fully exercise their voting rights”; “Amend legislation to ensure that elections are held in accordance with international standards and in the presence of observers of the Organization for Security and Co-operation in Europe”; “Take effective measures to eliminate discrimination on the basis of race, ethnicity, religion and sex and to stop racial profiling by law enforcement agencies”; and many others.

Significantly, in response to the many comments made by State representatives on police brutality and remedies for racial discrimination (this is also mentioned in the UPR Working Group’s report), Assistant Secretary of State Robert Destro said that “individuals and their families have access to state and federal courts to press for institutional changes and monetary damages.” He thus essentially acknowledged the existence of those institutional problems in the United States to which the United Nations Human Rights Council has drawn attention, including the problems that in some way or another impinge on the functioning of that country’s electoral system.

To conclude: there is no doubt that the United States by no means meets the universally recognized democratic standards that the US Government, by force of habit, continues to lecture other countries about. As was rightly pointed out by the former President of Russia and now Deputy Chairman of the Security Council of the Russian Federation, Dmitry Medvedev, “the internal and external instability of the United States is largely due to a clumsy, hopelessly outdated voting system that has been carried over from the eighteenth century to the present without any major changes. And the last election turned out not to be a political contest of ideas of the kind the United States has always prided itself on, but rather the confrontation between two campaigns of hatred.”

Thank you for your attention.